

In the Matter of:)
)
Business Meeting)
_____)

Commissioners Present

Robert B. Weisenmiller, Chair
James Boyd
Karen Douglas
Carla J. Peterman

Staff Present:

Michael Levy
Rob Oglesby
Jennifer Jennings
Lynn Sadler
Harriet Kallemeyn

	Agenda Item
Terrence E. "Terry" O'Brien	
Kourtney Vaccaro	3
Kevin Bell	3
Kenneth Celli	4
Jeff Ogata	4 - 6
Mary Dyas	5 & 6
Gabriel D. Taylor	7
Craig Hoellwarth	8
Avtar Bining	9

Also Present

Presenters

Dr. Barry Wallerstein, SCAQMD

Interested Parties

	<u>Item #</u>
Ella Foley-Gannon, attorney for Calico	3
Elizabeth Klebaner, attorney for CURE	4
Charlene Wardlow, Ormat Nevada, Inc.	4

Public Comment

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Duane Knickerbocker, Brower Mechanical	8
Rick Wylie, Beutler Corp.	8
John Orr, Building Energy Association	8
Michael Day, Rockwood Consulting	8
Mark Lowder, CHF	8
Mark Fischer, Green Home Solutions by Grupe	8
Mark Stout, Apollo Energies	8
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Linnzi Cannon, ACES	8
Pat Rush, Clarke & Rush Mechanical	8
Terri Carpenter, Sacramento Employment and Training Agency	8
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*Mark Brewer	8
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*Nina Beatty	18
Bob Davis	18

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a. CITY OF MENLO PARK. Possible approval of the City of Menlo Park's locally adopted building energy standards to require greater energy efficiency than the <i>2008 Building Energy Efficiency Standards</i> .	
b. ELECTRIC POWER RESEARCH INSTITUTE, INC. Possible approval of Amendment 3 to Contract 500-05-030 with Electric Power Research Institute, Inc. for a no-cost time extension of 12 months ending December 15, 2012, to continue work for WESTCARB Phase III. This project will test the geologic carbon dioxide storage potential of the deep saline formations of the Colorado Plateau, an area of significant interest because it is home to large coal-fired power plants that supply a significant portion of California's electricity. (This contract is 100% federally funded.)	
c. ASPEN ENVIRONMENTAL GROUP. Possible approval of Amendment 3 to Contract 700-08-001 with Aspen Environmental Group to add federal contract terms associated with accepting the Bureau of Land management funding to support the Desert Renewable Energy Conservation Plan vegetation mapping and the joint Environmental Impact Report and Environmental Impact Statement.	
d. INTER-CON SECURITY SYSTEMS, INC. Possible approval of Amendment 8 to Contract 200-07-004 with Inter-Con Security Systems, Inc. to extend the term from January 1, 2012 to June 30, 2012, and add \$110,000 to the contract for unarmed security guards at the Energy Commission. The amendment is necessary due to ongoing negotiations for the Master Service Agreement with the California Highway Patrol. (ERPA funding.)	

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1. CONSENT CALENDAR (Continued).

- e. COUNTY OF TEHAMA. Possible approval of Amendment 1 to Agreement CBG-09-034 with the County of Tehama to reallocate the budget, revise the scope of work, and reduce the total grant by \$66,928 to a new total of \$165,998. This amendment does not change the grant term end date. (ARRA funding.)
- f. CITY OF SAN JUAN BAUTISTA. Possible approval of Amendment 1 to Agreement CBG-09-075 with the City of San Juan Bautista for a no-cost time extension from December 31, 2011 to June 14, 2012, to allow time to complete the city's streetlight replacement project. There is no other change to the agreement. (ARRA funding.)
- g. CITY OF BELMONT. Possible approval of Amendment 1 to Agreement CBG-09-059 with the City of Belmont to extend the term from February 25, 2012 to June 14, 2012. The city requested the extension due to staffing shortages and a longer than anticipated study of the merits of LED lighting versus. Induction lighting for the project. (ARRA funding.)
- h. CITY OF LOS ALAMITOS. Possible approval of Amendment 1 to Agreement CBG-09-071 with the City of Los Alamitos to revise the scope of work, reallocate the budget, and extend the term of the agreement from November 30, 2011 to June 14, 2012. The HVAC component of the project is being removed due to high cost; the project will now consist entirely of lighting retrofits. As a result of this change, the total grant amount is reduced from \$63,720 to \$22,683. (ARRA funding.)
- i. CITY OF MENIFEE. Possible approval of Amendment 2 to Agreement CBG-09-132 with the City of Menifee to add \$49,152 for a total grant amount of \$367,328; revise the scope of work for the purchase and installation of LED streetlights, traffic signal lamps, and internally illuminated street name signs; and extend

the term to June 14, 2012. (ARRA funding.)

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1. CONSENT CALENDAR (Continued).

- j. CITY OF FAIRFIELD. Possible approval of Amendment 1 to Agreement 008-09-ECE-ARRA with the City of Fairfield to reduce the loan from \$3 million to \$2.5 million and extend the term from December 30, 2011 to March 31, 2012. This amendment does not change the scope of work. The city will install induction streetlights citywide, replacing high pressure sodium lamps, resulting in an estimated \$241,000 in annual energy cost savings and a simple payback of 10.4 years. In addition to loan funds, the city will utilize an estimated \$99,000 incentive from Pacific Gas and Electric Company. (ARRA funding.)
- k. PIERS. Possible approval of Purchase Order 11-445.03-011 for \$21,224 to renew the Energy Commission's subscription to PIERS for one year beginning January 2012. PIERS provides detailed monthly fuel products import and export data for California ports that is used in Energy Commission reports and to address information requests from other agencies. (ERPA funding.)
- l. PORTVISION. Possible approval of Purchase Order 11-445.03-012 for \$20,000 to renew the Energy Commission's subscription to PortVision Advantage Service for one year beginning January 2012. PortVision is a web-based service that provides marine vessel tracking and historical data. Energy Commission staff will use PortVision to monitor tanker movements in real time, drill down for detailed information about tanker arrivals and departures, and to support demurrage analysis, market research, and incident response. (ARRA funding.)

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3. Calico Solar Project Complaint And Investigation (11-CAI-01). Possible adoption of the assigned committee's proposed decision on BNSF Railway Company's Verified Complaint to Revoke Certification and Patrick C. Jackson's related request for investigation.	28, 51
4. Complaint Against Ormat Nevada, Inc. Brought by California Unions for Reliable Energy (11-CAI-02). Possible adoption of the assigned Committee's recommended denial of CURE's complaint and request for investigation alleging that the North Brawley Geothermal Project and the East Brawley Geothermal Project had jointly and severally violated section 25500 of the Warren-Alquist Act by failing to apply for and obtain certification from the California Energy Commission prior to operation.	35
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6. Kern River Cogeneration Project (82-AFC-2C). Possible approval of a petition to amend the Kern River Cogeneration Company to allow operation of all four combustion gas turbine units in an extended start-up period to conduct tuning of the units following removal and replacement of combustion hardware.	55
7. Portland Energy Conservation, Inc. (PECI). Possible approval of Amendment 2 to Contract 400-09-014 with Portland Energy Conservation, Inc. for a no cost shift of funding between tasks within the Energy Smart Jobs (ESJ) program budget. The ESJ program has exceeded its performance expectations, and has expended all incentive funds ahead of schedule. This has resulted in a \$650,000 surplus in the administrative portion of the budget, which can be shifted to fund additional energy efficiency projects. (ARRA funding.)	57
8. CRHMFA Homebuyers Fund. Possible approval of Amendment 2 to Contract 400-09-016 with CRHMFA Homebuyers Fund for authorization to augment up to \$5 million. Funds would be added to the Moderate Income Sustainable Technology (MIST) program, contingent upon program performance and availability of American Recovery and Reinvestment (ARRA) funds. The MIST program provides grants and low interest loans to moderate income homeowners for energy efficiency and renewable energy retrofits. (ARRA funding.)	59
9. SACRAMENTO MUNICIPAL UTILITY DISTRICT. Possible approval of Agreement PIR-11-002 for a grant of \$227,000 to Sacramento Municipal Utility District to demonstrate a one megawatt advanced zinc bromine flow battery energy storage system for utility grid applications and validate the potential penetration of the system. This award will be cost-share for the recipient's \$2.46 million American Recovery and Reinvestment Act of 2009 award as a key partner with Premium Power Corporation for a total of \$5.15 million. (PIER electricity funding.)	109

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11. Energy Efficiency Standards for Battery Charger Systems and Self-Contained Lighting Controls. Possible adoption of proposed amendments to the Appliance Efficiency Regulations in Title 20 of the California Code of Regulations relating to energy efficiency standards and other requirements for battery charger systems and self-contained lighting controls. This adoption hearing follows the mandatory 45-day comment period for the regulations, as required by the Administrative Procedure Act.	held
12. Ridgecrest Solar Power Project (09-AFC-09). The Commission will hold a closed session pursuant to Section 11126(c)(3) of the Government Code, to deliberate on the decision to be made in response to Applicant's Motion for Order Affirming Application of Jurisdictional Waiver pursuant to Section 25502.3 of the Public Resources Code. No action will be taken by the Commission on this date.	HELD
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b. <i>Public Utilities Commission of California (Federal Energy Regulatory Commission, Docket No. EL10-64-000); and Southern California Edison Company, et al. (Federal Energy Regulatory Commission, Docket No. EL10-66-000);</i>	
c. <i>BNSF Railway Company v. US Department of Interior, California Energy Commission (U.S. District Court Central District of California-Riverside, CV 10-10057 SVW (PJWx));</i>	
d. <i>Richard Latteri v. Energy Resources, Conservation and Development Commission, et al. (Sacramento County Superior Court, 34-2011-99985).</i>	
e. <i>Communities for a Better Environment, Robert Sarvey v. California Public Utilities Commission, Energy Resources Conservation and Development Commission, Real Parties in Interest, Pacific Gas and Electric Company, Contra Costa Generating Station, LLC. (California Supreme Court, S194079).</i>	
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P R O C E E D I N G S

NOVEMBER 30, 2011 10:07 a.m.

CHAIRMAN WEISENMILLER: Good morning. Let's begin today's Business Meeting with the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited in unison.)

CHAIRMAN WEISENMILLER: Good morning. Let's lay out what we're going to do today and then we can start.

First, this is a special occasion. The end of year is often times a transition and we have a couple of transitions that we want to note today. One of them is Barry Wallerstein from South Coast, I believe, is going to be here to talk about Commissioner Boyd who after 50 years of public service will be retiring not today but at the end of the month and we'll talk more about that at the next Business Meeting on the 14th but, I don't see Barry at this moment, but in addition today we're going to celebrate Terry O'Brien's career here and mourn his departure. So anyway we'll start out with that.

In terms of Items on the Agenda, we're going to hold Item 1D. We're going to hold Item 2. Some of these will be coming up at the next Business Meeting.

1 Item 10 and 11 are being held and we'll talk about
2 that more when we get to those Items, perhaps, and
3 also Item 12 will come up at the next meeting. We'll
4 have an open discussion then. So with that.

5 Anyone see Barry? Let's start with Terry.

6 COMMISSIONER BOYD: This is Terry's day.
7 Let's do Terry.

8 CHAIRMAN WEISENMILLER: Let's start with
9 Terry.

10 Terry, first of all, want to start by
11 talking about Terry's contribution to the public and
12 also particularly this Agency. And, again, I'll
13 indicate we're certainly going to miss Terry.

14 Terry, I don't know if you want to come up
15 to the podium.

16 I'll at least -- I'll start and I'm sure the
17 other Commissioners will want to chime in and then we
18 have a resolution.

19 Terry has had a public service career of 34
20 years and he's been here the entire time. He's been
21 Deputy Director of the Siting Division. He's retiring
22 today after spending 32 of those 34 years here at the
23 Energy Commission. It's really a commitment to public
24 service and he's worked very hard to ensure
25 California's electric resource development occurs

1 while also protecting California's development which
2 has certainly been one of the key roles of this
3 Agency.

4 He arrived at the Commission back when Jerry
5 Brown was in his first term of Governor and so both of
6 us have sort of returned, or at least I've returned,
7 for Brown 2 but also with the opportunity to work with
8 Terry the last couple of years. I did check with one
9 of my colleagues from back then, Gloria Harmon, who
10 actually hired Terry, observed he was just a kid then
11 and --

12 MR. O'BRIEN: I was 11.

13 CHAIRMAN WEISENMILLER: 11?

14 [LAUGHTER]

15 CHAIRMAN WEISENMILLER: Well, I think she
16 claimed she was 12 but she assures me she's still a
17 kid, at least at heart, but anyway and then Terry
18 moved from the Personnel office under Gloria to the
19 Siting Division 18 months later. And he has worked in
20 that Division since March of 1981 and aside from a
21 two-year assignment as the Project Manager of the 1996
22 Electricity Report and two and a half year stint as
23 the Principal Advisor to the Chairman and he became
24 the Deputy Director in 2002.

25 Terry has certainly worked on not only easy

1 cases but the tough cases for siting. That's just
2 part of the job. Under his guidance and leadership,
3 particularly last year, it was a very, very
4 challenging year. Well it was the toughest we've had
5 in the Siting workload but Terry was really, really
6 responsible for us evaluating over 4,000 megawatts of
7 clean renewable solar energy and he was also one of
8 the key leaders of the state, federal agency, totally
9 unprecedented, Renewable Energy Action Team. That,
10 since then, has become a real model to the nation on
11 how Agency's can work together to give people clarity
12 and certainty on the siting decision but do it in a
13 timely fashion.

14 Terry spent many, many hours last year, well
15 over the whole term here, but particularly last year
16 basically and spent a lot of time on the ground in the
17 disturbed sites looking for disturbed that were good
18 locations for renewable generation projects. We all
19 learned that location matters for these cases but I
20 think that certainly that with on the ground training
21 is where he helped us and that location focus and I
22 think as we move forward with the DRECP certainly that
23 will be part of Terry's legacy.

24 And I think through Terry's leadership we've
25 gotten a reputation for, essentially, doing very

1 careful, very thorough licensing review of power
2 plants and, again, making sure that we do everything
3 we can within reason to mitigate the impacts of those.
4 We certainly appreciate his diligence, his wisdom, his
5 attention to detail, his patience and humor and
6 leadership of the team. Again, when people really
7 rose to the occasion last year was in response to
8 Terry's leadership. We're honored to honor an
9 employee who's been at this organization almost as
10 long as the Energy Commission has been around.

11 So I want to ask everyone to join me in
12 acknowledging Terry's role, his 32 years of service
13 serving the Energy Commission and the people of
14 California and wishing him many, many happy years of
15 retirement. Again, thanks, Terry.

16 [CLAPPING]

17 COMMISSIONER BOYD: Mr. Chairman, will you
18 entertain a comment from a Commissioner before we're
19 allowing Terry to -

20 CHAIRMAN WEISENMILLER: Oh, sure.

21 COMMISSIONER BOYD: As indicated in your
22 summary of Terry's work history here, when I arrived
23 here almost 10 years ago, Terry was the Principal
24 Advisor to Chairman Keyes and that was my first
25 introduction to Terry and in capacity of sitting in

1 the office next to mine, as Advisor to Chairman
2 Keyes, Terry was a valuable individual with respect to
3 helping this new Commissioner along. Along with my
4 single advisor and what we discovered in our early
5 discussions was that a gentleman who although cursed
6 with working for the oil industry had nonetheless
7 become a good friend of mine because for a host of
8 reasons; one he helped resolve problems, two we found
9 ourselves at an environmental conference in Colorado
10 listening to David Brower once and I said, "You can't
11 be that bad a guy even if you work for the oil
12 industry." He turned out to be Terry's cousin and
13 that was an additional bond.

14 Terry, I just want to say I, for one, have
15 the deepest respect for anybody who's made a
16 commitment as deep as yours to public service and
17 maybe I'm a little biased in that particular arena but
18 that bias allows me to know what a commitment, and
19 sometimes, what a burden commitment can be. I deeply
20 appreciate your dedication to this Agency, to public
21 service and I have immense respect for your very
22 leveled, low-key, compassionate approach to the jobs
23 that you've had but particularly the very difficult
24 job of the Deputy Director for our siting activity in
25 these very interesting times over the last 2-3 years.

1 So you have my immense respect particularly
2 for the fact that you've sacrificed perhaps some of
3 your health with respect to this and that's an even
4 greater burden to bear. I wish you the incredible
5 very best. Maybe you and I can go have coffee as
6 retirees or something but I would not want to lose
7 contact with you because I think you've just been a
8 stellar performer and the absolute best example of
9 what a real public servant is and these are tough
10 times to be a public servant. The people and the
11 politicians like to run against government in
12 Sacramento and they seem to enjoy running across the
13 backs of state employees often times. You've endured
14 that down through the years and you are to be
15 commended for that as well as your incredible
16 contribution to this Agency and to the people of
17 California for what's happened. This Agency is
18 worldwide famous and much heralded, much abused on
19 occasion, but you obviously made a huge contribution
20 to that. And I just salute you and thank you.

21 COMMISSIONER DOUGLAS: Terry, we're not
22 going to let you yet. I just wanted to say that I've
23 had the opportunity to work very closely with Terry
24 from my first day on the Commission, really, because
25 Chairman Pfannenstiel and — had decided that I would

1 start out on Siting Committee as well as a few other
2 committees and so I walked right in to the world of
3 siting from the very beginning. I was somewhat
4 impressed by the challenge of it but immediately put
5 at ease by working with Terry and recognized
6 immediately what a capable leader of the staff and a
7 leader within the Energy Commission Terry is. And so
8 through these rather tumultuous years with ARRA
9 projects and unprecedented workload and really
10 incredible challenges, I don't think, well, there
11 might have been a day but I don't think there were
12 many days where I saw Terry flustered at all. Maybe
13 awed by the challenge but up to it as the staff has
14 been and that is very much part of Terry's influence
15 and his great contributions to the Energy Commission.

16 He's also impressed me as a strong
17 environmentalist and with a particular love for the
18 desert and appreciate for the desert and that, of
19 course, has been extraordinarily valuable to us as we
20 faced large solar projects in the desert and the
21 challenges and opportunities that presented us with
22 the DRECP, the Desert Renewable Energy Conservation
23 Plan, is very much part of Terry's leadership and his
24 willingness to step out of the comfort zone of this
25 Agency and do something that we've never done before.

1 I, also, strongly credit Terry with helping
2 us build the unprecedented partnership that we have
3 built with other agencies, both state agencies, such
4 as the Department of Fish and Game, but also federal
5 agencies. Our fellow agencies on the Renewable Energy
6 Action Team, Bureau of Land Management, Fish and
7 Wildlife Service and others and so as we move forward
8 with these projects that run with federal land and
9 joint permitted by different agencies, under different
10 statutes with different timelines and timeframes and
11 legal requirements and all of the challenges that that
12 presented. Terry's leadership was incredibly
13 important in helping us create and maintain the
14 partnerships and the level of trust that was needed to
15 do that work and to do that well in partnership with
16 other agencies.

17 So I think that I have been in the last
18 couple of months walking around more or less in denial
19 that Terry is retiring and I see him standing there
20 and I doubt he's going to take all of this, the moment
21 that he has to stand there and listen to us talk about
22 him and then change his mind.

23 So, anyway, I wish you the best Terry and,
24 hopefully, you will continue to guide us in our
25 occasional, recreational pursuits of the desert

1 because I think Terry has great knowledge and
2 information about where to go and where to hike and
3 what to see in the California desert. So hopefully
4 I'll still be able to take advantage of that.

5 COMMISSIONER PETERMAN: Terry,
6 congratulations. I, just, working on renewables I
7 wanted to thank you again for, in particular, all the
8 work you've done to develop renewables in the state.

9 As Commissioner Douglas mentioned the
10 collaborative and coordinated work you did with the
11 REAT Team on other projects is really a model that
12 we're now trying to employ when deciding distributed
13 generation and thinking about what the next phase is.

14 I also wanted to say thank you from a
15 personal level for loaning me, graciously loaning me,
16 my advisor Jim Bartridge. I know he was one of your
17 valued staff and it's not easy in these times to let a
18 staff member go but your commitment to the Energy
19 Commission and to Commissioners and to supporting us
20 in our work led you to be willing to do that. The
21 first place he made me go visit was the Siting
22 Division and I'm constantly being told about the
23 importance of maps in land use and planning and I know
24 I have you to thank for that.

25 So I wish you the best with your retirement.

1 I don't know what you have planned. For some reason
2 what comes to mind is you bench pressing thousand page
3 AFCs or Final Staff Assessments to stay in shape. But
4 whether it's that or turtle hatcheries, I wish you the
5 best and the most enjoyment with it.

6 MR. O'BRIEN: Commissioners, thank you very
7 much for those kind words. They obviously mean a lot
8 to me. And I'm going to, obviously, miss working
9 here. But I'd like to say a few things as my last day
10 as the Deputy Director and I promise to be brief.

11 As the Chairman noted, I started at the
12 Commission in August of '79 when I was young, single
13 and a graduate student recently returned from distant
14 travels. Thirty plus years later I leave slower,
15 wiser and with gratitude for a career spent as a
16 public servant spent at the Energy Commission.

17 I have deep affection for the Commission and
18 pride in what it has accomplished since its inception
19 in 1975. Those who have worked here have made the
20 world a better place and continue to do so as we
21 confront numerous challenges including global climate
22 change.

23 It has been a great privilege and an honor
24 to serve as the Commission's Deputy Director of the
25 Siting, Transmission and Environmental Protection

1 Division for the past 10 years.

2 I want to thank all the employees of the
3 Division with special thanks to the Office Managers
4 and Supervisors who have worked so hard and
5 effectively on the licensing of power plants,
6 transmission policy in corridor issues, READY,
7 compliance oversight, the IEPR, contract management,
8 cartography, personnel and budget issues and, most
9 recently, on the Desert Renewable Conversation Plan.
10 I will miss working with all of you.

11 There are too many people to mention by name
12 in terms of thanks but I do want to acknowledge a few
13 individuals. I want to thank my predecessor as Deputy
14 Director and former Executive Director Bob Therkelsen
15 who is a mentor and an extraordinarily talented
16 manager. I'd also like to thank Melissa Jones for the
17 unflinching support she provided the Division and me
18 during the challenges of the historic siting workload
19 in 2009 and 2010. And I also want to thank Roger
20 Johnson who I have worked with longer than anyone at
21 the Commission and who is so vital in helping the
22 Division process the mountain of work during the ARRA
23 workload crunch in 2009 and 2010.

24 I hope I've made a positive difference at
25 the Commission while creating an environment of trust,

1 commitment and more than a little humor. I have
2 always tried to make informed decisions that are
3 reasonable, balance and in the best interest of the
4 people of the State of California and our incomparable
5 environment. I am grateful for my good fortune to
6 have worked with such a talented and dedicated group
7 of individuals. Leaving is bittersweet and I will
8 miss the people and the new challenges, and I wish I
9 had the opportunity to work longer with Rob and Drew
10 but Commission staff are in good hands.

11 In closing, Commissioners, if I can be so
12 presumptuous I will end by offering you some simple
13 advice from Mark Twain who once said, "Always do
14 right. This will surprise some and astonish the
15 rest." Thank you, and good luck.

16 [CLAPPING]

17 CHAIRMAN WEISENMILLER: Okay, Terry. We
18 have a resolution that I'm going to read and I'm going
19 to give you a copy which has, obviously, been signed
20 by all the Commissioners.

21 Whereas Terry O'Brien for more than 35 years
22 has diligently and passionately worked for the State
23 of California, demonstrated commitment to excellence
24 in making decisions to protect California citizens and
25 unique natural resources; and, whereas Terry has

1 worked in the Siting, Transmission and Environmental
2 Protection Division for 28 years serving as Project
3 Manager, Siting Program Manager and for the last 9
4 years as Deputy Director; and, whereas Terry served as
5 Project Manager of the 1996 Electricity Report, later
6 as a special advisor to the Chairman of the Energy
7 Commission; and, whereas Terry has worked as a member
8 of the Renewable Energy Action Team and the Renewable
9 Energy Policy Group for the past three years helping
10 expand and solidify federal/state cooperation on
11 renewable energy projects and forge a roadmap for the
12 develop and conservation in the Desert Renewable
13 Energy Conservation Plan; and, whereas Terry guided
14 the Siting Division through the challenge of reviewing
15 10 American Recovery and Reinvestment Act solar
16 projects in the 2009 and 2010 period and 15 natural
17 gas fired projects in the same time period; and,
18 whereas Terry has survived numerous meetings in the
19 Governor's Office and the Legislature where he has
20 come to understand and fully appreciate our democratic
21 institutions; and, whereas Terry has learned as a
22 geographer what he really already knew, namely that a
23 day spent in the desert is more valuable than a week
24 spent in the office and has never succumbed to satire,
25 sarcasm or cynicism in dealing with bureaucrats,

1 bureaucracies of the state's efficient and equitable
2 civil service system and therefore, be it resolved,
3 the California Energy Commission recognizes and is
4 grateful to Terrance E. O'Brien for his superior and
5 professional contributions in serving the citizens of
6 California with integrity, intelligence and
7 graciousness and wishes him all the best in future
8 endeavors. Terry.

9 [CLAPPING]

10 CHAIRMAN WEISENMILLER: And now we also want
11 to talk about the other transition, although again,
12 it's not happening right now but Jim Boyd after 50
13 years of public service and his term with the Energy
14 Commission will be retiring at the end of the year and
15 we wanted to take the opportunity when Barry was in
16 town to also discuss this event. Barry, go ahead.

17 MR. WALLERSTEIN: Good morning, everyone.
18 I'm Dr. Barry Wallerstein, the Executive Officer of
19 the South Coast Air Quality Management District and
20 it's a pleasure to be here today.

21 Every year our agency presents Clean Air
22 Awards and Commissioner Boyd was unable to attend our
23 luncheon and our governing board felt that his award
24 that he has received this year needed to be delivered
25 in person and not through the mail. So I am here with

1 the privilege of doing so.

2 The award that Commissioner Boyd is
3 receiving from our Agency is for Leadership in
4 Government. The award is named after our longtime
5 Vice Chairman Roy Wilson, a former Riverside County
6 Supervisor who, in our Governing Board's opinion,
7 really represented the model for what we should be and
8 what we should do in government. And so when it came
9 to this year and deciding who should receive this
10 award the Governing Board selected Commissioner Boyd.
11 I think the reasons are quite obvious.

12 His numerous, numerous contributions to
13 policy regarding air quality, energy and environment.
14 I think, quite honestly, there are very few that
15 surpass what Commissioner Boyd has contributed to this
16 state over the years.

17 But what I would also personally add is that
18 you can look back on many, many decades of progress
19 and policy regulation and so on but what Commissioner
20 Boyd has also contributed to this state is his
21 mentorship of many, many individuals who also
22 contribute in those fields. And, frankly, I'm one of
23 them.

24 So it is with great pleasure that I am here
25 today to present what we think is the most special of

1 our clean air awards this year to Commissioner Boyd.

2 I also have the privilege to present to Commissioner

3 Boyd a certificate of recognition from Assemblywoman,

4 Betsy Butler, recognizing his contributions and this

5 award that he receives today.

6 And with that, Commissioner, I can present

7 the award to you. I would be quite pleased.

8 [CLAPPING]

9 COMMISSIONER BOYD: I would say that I did

10 not know this was occurring today.

11 [CLAPPING]

12 CHAIRMAN WEISENMILLER: So now we'll go back

13 to our regular order of business. The first Item is

14 the Consent Calendar and, again, that is one excluding

15 Item D and I'm going to hold Item C for a separate

16 vote. So the Consent Calendar except for C and D is

17 the first Item of business.

18 COMMISSIONER BOYD: All right, Mr. Chairman,

19 I will move the Consent Calendar consisting of Items A

20 - M with the exception as noted of Items D and C.

21 COMMISSIONER DOUGLAS: Second.

22 CHAIRMAN WEISENMILLER: All those in favor?

23 (Ayes.)

24 I'm going to recuse myself on consent Item

25 1C so Vice Chair.

1 COMMISSIONER BOYD: Thank you, Mr.
2 Chairman. So with the absentee of the chairman from
3 the dais we will consider consent Item 1C.
4 COMMISSIONER PETERMAN: I'll second.
5 COMMISSIONER BOYD: We need a motion,
6 please.
7 COMMISSIONER PETERMAN: I'll motion Item C.
8 COMMISSIONER DOUGLAS: Second.
9 COMMISSIONER BOYD: All those in favor?
10 (Ayes.) Opposed none so it's approved 3 -
11 0. Thank you very much, and welcome back Mr.
12 Chairman.
13 CHAIRMAN WEISENMILLER: Thank you and as
14 noted Item 2 is being held so the next Item is Item 3.
15 Calico Solar Project Complaint and Investigation, 11-
16 CAI-01. Kourtney?
17 HEARING OFFICER VACCARO: Thank you. Good
18 morning, Chair Weisenmiller, Commissioners. I'm
19 Kourtney Vaccaro with the Hearing Office and this Item
20 before you relates to the Calico Solar Project which
21 was certified by the Commission in December 2010.
22 More specifically, the BNSF Railway company and an
23 individual by the name of Patrick Jackson respectively
24 filed pleadings essentially alleging that Calico made
25 material false statements throughout the application

1 for certification proceeding by representing to the
2 Commission that Stirling SunCatcher Solar dishes and
3 technology would be available to the project.

4 According to BNSF and Mr. Jackson, Calico
5 knew for some time throughout the project that
6 SunCatcher's would not be commercially available or
7 economically feasible for the project.

8 For those reasons BNSF and Mr. Jackson asked
9 that the Commission revoke the project's
10 certification. I think the proposed decision before
11 you very neatly and concisely lays out the analytical
12 path of the assigned Committee and also explains the
13 rationale that the Committee used in determining that
14 any statement made by Calico with respect to
15 SunCatcher feasibility or economic viability, whether
16 true or false, did not have any bearing on the
17 Commission's decision to certify the project.

18 As the decision itself reflects as well as
19 the record of the complaint investigation proceeding
20 show, the Committee conducted a hearing, took
21 evidence, considered evidence, considered all relevant
22 laws applicable to siting, considered the PMPD, the
23 final decision as well as pertinent excerpts from the
24 hearing transcripts of the Calico Solar Project
25 Proceedings. Therefore, as reflected in the decision,

1 the Committee recommends that the complaint and
2 investigation proceedings be dismissed with prejudice.
3 What the Committee has also done, through me as its
4 agent, has prepared a proposed adoption order for the
5 Commission to approve that basically has the
6 Commission adopting as its own the proposed decision.

7 I would normally end my opening comments
8 there and then receive any questions and have the
9 Commission hear from the other parties but I think in
10 all fairness to the Commission and to the other
11 parties to this proceeding it's important to note that
12 as I was sitting here listening to the very well
13 deserved comments with respect to the two prospective
14 retirees I received a document that staff believed
15 that it had previously docketed but apparently had not
16 where staff does make some suggested changes to the
17 proposed decision.

18 I've had the opportunity to review it for
19 about 5 minutes and will have some comments, I think,
20 but first I'd rather have staff lay out what its
21 position and recommendation is and if the Commission
22 would like to hear comments from me with respect to
23 that recommendation I'd be happy to give those
24 comments.

25 MR. BELL: Thank you. Kevin Bell on behalf

1 of staff. First off, staff appreciates the time and
2 effort that Committee put into this complaint
3 proceeding. Staff does acknowledge that it wasn't a
4 party to this proceeding but of course we monitor the
5 proceeding, we've provided comments all along and we
6 did have some further comments on the proposed
7 decision.

8 The proposed decision is very thorough. I
9 think it does set forth a very accurate account of the
10 proceedings itself and the recommendations are sound
11 and staff agrees with those recommendations and
12 supports them. However there is one part of the
13 proposed decision that staff would like the Commission
14 to take a look at and that is the definition of a
15 material false statement and the amount of space that
16 was dedicated to discussing that concept.

17 Staff notes that the Committee at the end of
18 the proposed decision concluded that the – that even
19 if the above referenced statements and alleged
20 omissions by Calico were false the matter that we need
21 not and do not decide the statements were not material
22 within the Section of 25534. The proposed decision
23 revolves around whether the statements themselves were
24 material not whether or not the statements were false.
25 Therefore the staff would request that the Committee

1 and the Commission, specifically, consider deleting
2 those portions of the proposed decision that discuss
3 whether or not the statements themselves were
4 materially false as it doesn't have any bearing on the
5 ultimate decision.

6 CHAIRMAN WEISENMILLER: Let's give the
7 applicant and the other parties a chance to respond
8 also at this stage.

9 MS. FOLEY-GANNON: Good morning,
10 Commissioners. I'm Ella Foley-Gannon. I'm Counsel to
11 Calico Solar, the respondent to this petition.

12 First off, I'd like to thank the Committee
13 for the time and effort made in these proceedings and
14 for its well reasoned decision. I would also like to,
15 I understand why and agree with the decision, that the
16 statements were not material and therefore you didn't
17 need to make a decision about whether they were false
18 or not but I would just like to say on behalf of
19 Calico Solar there were no false statements made in
20 these proceedings. Again, I understand why that
21 doesn't need to be decided in the proceedings but just
22 for the record we would like to make that statement
23 clear for your knowledge.

24 We have no objection to staff's
25 recommendation about the deletion of the sections that

1 have been proposed. And, again, thank you.

2 CHAIRMAN WEISENMILLER: Any representative
3 from Burlington here or on the phone?

4 Mr. Jackson, are you on the phone?

5 Thank you.

6 COMMISSIONER DOUGLAS: Commissioners, the
7 Committee on this Item had pretty exhaustively
8 researched and looked into the issue. The Committee
9 consisted of myself and Chair Weisenmiller. I'd like
10 to thank the Hearing Officer Kourtney Vaccaro for her
11 thorough work and legal research on this issue.

12 The recommendation is before you and we've
13 heard from the parties and non-parties.

14 Would you like to take public comment or
15 should we decide at this point what we want to do with
16 staff's suggestion?

17 CHAIRMAN WEISENMILLER: Certainly public
18 comment. Is there anyone in the room or on the phone?

19 COMMISSIONER DOUGLAS: Okay. In that case
20 let me ask the Hearing Officer what she thinks of
21 staff recommendation.

22 Offhand I can't think of objections but you
23 have been very immersed in this issue.

24 HEARING OFFICER VACCARO: Just based on the
25 really cursory review, I don't have I think an

1 objection to refinement of the language to the extent
2 that staff is considered that the use of deliberate or
3 intentional falsehood. That's really what their
4 concern seems to be. That if these were applied to an
5 amendment to a condition of certification that staff
6 believes that that would be problematic. I'm not
7 hearing that staff suggest that it's problematic for
8 the purposes of the very draconian act of revoking
9 certification that a material false statement be
10 something that is deemed deliberate and intentional.

11 I think this language on page 7 could be
12 revised just minimally to effect staff's goal but I'm
13 not sure if I've stated it correctly or if I've
14 misstated staff's position but I don't believe that
15 the decision needs to delete or refrain from opining
16 on what a material false statement is in the context
17 of revoking certification.

18 COMMISSIONER DOUGLAS: Mr. Bell?

19 MR. BELL: I couldn't disagree with anything
20 that Ms. Vaccaro said. Like I said staff believes
21 she's done a particularly thorough job with this
22 order. As the language in the proposed decision
23 applies to this specific case staff can't find any
24 fault with the language. However, staff is looking
25 forward and staff could see other circumstances where

1 if that language were applied that it could create
2 some difficulties in the context of revoking
3 certification or amending a decision for other
4 circumstances. But with the circumstances presented
5 here we see no fault with the language itself it's
6 just that it is as we say in the legal field "dicta,"
7 discussion that doesn't bear on the ultimate decision.

8 CHAIRMAN WEISENMILLER: So at this stage
9 what we're going to do we're going to hold this Item
10 open, move on to the next Item and ask the three of
11 you to step out and come back to us with any specific
12 changes so that we can consider that in our vote.

13 MR. BELL: Thank you.

14 CHAIRMAN WEISENMILLER: And encourage prompt
15 action.

16 Let's go on to Item 4.

17 And I was going to say obviously if to the
18 extent that there are other parties in this case that
19 want to be part of that we'll consider it when the
20 language comes back. Consider the comments when the
21 language comes back for public comments on it.

22 Let's go on to Item 4. Complaint against
23 Ormat Nevada, Inc. Brought by California Unions for
24 Reliable Energy (11-CAI-02). Ken?

25 HEARING OFFICER CELLI: Good morning,

1 Chairman Weisenmiller. I'm over here at the
2 computer. Good morning, Commissioners. Kenneth
3 Celli, C-E-L-L-I, on behalf of the Committee assigned
4 to the complaint brought by California Unions for
5 Reliable Energy against Ormat Nevada, Inc.

6 This action concerns where the Energy
7 Commission has jurisdiction over two power plants that
8 are located in central Imperial County. If you look
9 at your monitor you'll see a map and you can see where
10 the general area is south of the Salton Sea, north of
11 Brawley.

12 The two power plants are the existing North
13 Brawley Geothermal Power Plant and the proposed East
14 Brawley Geothermal Power Project which are both wholly
15 owned subsidiaries of Ormat Nevada, Incorporated.

16 The North Brawley Project which would be the
17 blue box sort of in the middle of the next screen
18 there already has a permit from Imperial County and
19 has been operational since December 2008. The pink
20 box which represents the proposed Brawley East River
21 Power Project is still in its permitting stage.
22 There's DEIR which was issued by the County of
23 Imperial but the FEIR is still pending.

24 The complaint brought by CURE which was
25 brought on June 28, 2011 essentially alleges that the

1 Commission should have lead agency over the
2 jurisdiction – rather the Commission should have lead
3 agency jurisdiction over the two projects because they
4 each individually are greater than 50 MWs. The
5 complaint further alleges that the two plants should
6 be treated as a single power plant pursuant to the
7 Commission's October 29, 1986 Luz SEGS decision
8 because of the extent to which they share common
9 infrastructure and other factors.

10 The respondent, Ormat Nevada, Inc., denied
11 all of the relevant allegations. The Energy
12 Commission staff and intervener Imperial County were
13 the only other two parties to the proceedings. And a
14 Committee was made up of Commissioner Douglas
15 presiding and Chairman Weisenmiller as the associate.

16 They held an evidentiary hearing on
17 September 26, 2011 and the proposed decision was filed
18 on November 8, 2011 pursuant – which was timely
19 pursuant to a stipulation by the parties.

20 The decision recommends dismissal of the
21 complaint, denial of the relief sought based upon
22 insufficiency of the evidence. To summarize the basis
23 of the Committee's findings: first, the net generating
24 capacity is calculated pursuant to our regulations as
25 the maximum gross rating of the plants turbine

1 generators in megawatts minus the maximum auxiliary
2 load.

3 Ormat's experts testified that the, Ormat's
4 several experts actually, testified that the net
5 generating capacity of both facilities was originally
6 designed to be 49.5 megawatts using up to six Ormat
7 energy converter units or what are referred to in the
8 decision as OECs. However the end controverted
9 historical data on the output of the North Brawley
10 facility established that the current net capacity is
11 about 33 MWs running with 5 OEC units and that the
12 average net generation is somewhere in the range of 25
13 MWs.

14 The current net generating capacity of the
15 proposed East Brawley design has been revised down to
16 30 MWs because the area available for development is
17 much smaller than that available to North Brawley and
18 that the geothermal resources are much cooler at East
19 Brawley than at North Brawley. So the new design for
20 East Brawley calls for 3 OECs.

21 In the record the respondent made clear that
22 the geothermal power plants are a very different
23 animal than gas fired combustion turbine generators.
24 A gas fired CTG will have pretty much the same net
25 generating capacity no matter where you cite it.

1 However the OEC is always custom designed to match
2 the quantity and quality of the geothermal resource
3 available to it. They're site specific and their net
4 generation capacity depends upon the interplay of a
5 multiplicity of factors but primarily on the
6 geothermal resource which have greatly varying
7 temperatures and chemical characteristics.

8 CURE's witnesses attempted to show that the
9 North Brawley and East Brawley geothermal projects
10 could exceed 50 MWs however both of CURE's witnesses
11 testified that they were not expert in the assessment
12 of geothermal resources and neither witness had
13 experience in the operation or management of a
14 geothermal power plant.

15 They testified that they had not considered
16 the site specific ambient and operating conditions in
17 calculating maximum steam flow conditions pursuant to
18 staff's general method of determining thermal power
19 plant generating capacity.

20 And CURE offered no evidence at all of
21 resource constraints or the annual average ambient
22 conditions experienced at either site. The Committee
23 therefore found that the Ormat's experts' testimony
24 carried more convincing force because they had a
25 superior command of the facts and a more thorough

1 understanding of the geothermal power plants.

2 In light of the deficiencies in CURE's
3 evidence and Ormat's more credible testimony and
4 staff's independent corroboration of Ormat's
5 calculations of generating capacity, the Committee
6 found that CURE had not met burden of proving that the
7 capacity of either North Brawley or East Brawley
8 geothermal projects exceeded 50 MWs.

9 As to whether the North Brawley and East
10 Brawley Power Projects operate as a single combined
11 power plant pursuant to Luz SEGS the two facilities
12 are nearly two miles apart. I'm going to show you
13 another slide that shows you. You can see the North
14 Brawley is the blue box a little to the left and you
15 can see where the river, if you can follow my cursor,
16 that's the new river. Over here is a waste water
17 treatment that belongs to the town of Brawley and the
18 two to the right of it would be the proposed site.
19 And then you can see certain sites as streets and you
20 get some sense of their relative location.

21 The two facilities are 1.75 miles apart.
22 There is insufficient evidence in this record to prove
23 that the two facilities would share property lines,
24 would share infrastructure, would share linear
25 features or have any commonalities that would lead a

1 reasonable person to conclude that they were a single
2 facility.

3 Thus the Committee found that CURE failed to
4 establish that the North and East Brawley facilities
5 would operate as a single power plant. Now the
6 Committee would like to emphasize that the decision
7 expressly limits itself to the facts which are unique
8 to geothermal power plants and makes no finding as to
9 the actual net generating capacity of North and East
10 Brawley facilities apart from the fact that they are
11 less than 50 MWs and subjurisdictional. The decision
12 recommends denial of the release sought in the
13 complaint, dismissal of the complaint with prejudice
14 because the complainant did not meet its burden of
15 proof. The Committee submits the matter to the
16 Commission and I'm going to request whomever makes the
17 motion to please move the proposed decision of
18 November 8 and the Committee Errata of November 16 be
19 adopted. With that I'm available to answer any
20 questions.

21 CHAIRMAN WEISENMILLER: Is there anyone in
22 terms of parties? I understand that CURE is on the
23 line. Is there anyone representing in the room? Hi.

24 MS. KLEBANER: Good morning, Chairman
25 Weisenmiller. Good morning, Commissioner Peterman,

1 Commissioner Douglas, Commissioner Boyd. Elizabeth
2 Klebaner for California Unions for Reliable Energy.

3 Thank you very much for the opportunity to
4 address you today. I will keep my remarks brief
5 because this matter is straight forward.

6 I just wanted to respond to what Hearing
7 Officer Celli presented to you today.

8 The proposed decision violates the Warren-
9 Alquist Act and may not be adopted by this Commission.
10 Under the act only this Commission has jurisdiction
11 over thermal power plants with a generating capacity
12 of 50 MWs or more.

13 This test looks at the physical generating
14 capacity of a plant. This is a hardware question.

15 The Commission's jurisdiction over such
16 facilities is mandatory and exclusive. The Commission
17 must exercise jurisdiction. A local agency cannot.

18 In the proposed decision the Committee
19 concluded that this Commission lacks jurisdiction
20 because North Brawley and East Brawley are each
21 incapable of producing 50 MWs using only 5 generating
22 units. The Committee's decision is an error in the
23 matter of law.

24 It is undisputed that Ormat applied for and
25 received county authorization to construction and

1 operate 6 generating units at the North Brawley
2 Project site and that Ormat is currently seeking
3 county authorization to construct and operate 6
4 generating units at the East Brawley Project site. It
5 is also undisputed that the Draft Environmental Impact
6 Report prepared for East Brawley evaluates the impacts
7 of a 6 generator unit power plant.

8 According to Ormat's own calculations, which
9 we do not dispute, 5 generating units have a
10 generating capacity of 49.5 MWs. It is also
11 undisputed that all 6 units have a combined generating
12 capacity of more than 50.

13 In calculating the generating capacity of a
14 power plant that this Commission is required to
15 account for all generating units. Uncontroverted
16 evidence shows that North Brawley and East Brawley
17 each have a net generating capacity of 59 MWs or more.

18 Only this Commission has authority to issue
19 a permit authorizing construction and operation of a
20 North Brawley and East Brawley facilities.

21 The Committee also concluded that this
22 Commission lacks jurisdiction over North Brawley and
23 East Brawley, pointing to geothermal fuel supply and
24 fuel temperature, Ormat's economical considerations,
25 Ormat's transmission constraints and the county's

1 condition of use permit conditions.

2 These factors or legally irrelevant to
3 generating capacity. Again, only the Commission has
4 jurisdiction is just a generating capacity question.
5 Fuel supply is never mentioned in the regulations and
6 it is easy to see that fuel supply is irrelevant to
7 generating capacity.

8 Would a 100 MW gas fired plant fall outside
9 the Commission's jurisdiction if the local utility to
10 size down the natural gas supply pipeline? Clearly
11 not. The Commission would still have jurisdiction
12 over this project.

13 A developer's economic constraints are also
14 irrelevant to generating capacity. Could Fresno
15 County issue a permit for a 1,000 MW power plant
16 because such a project would discourage investment?
17 Obviously not. The Commission would still have
18 jurisdiction over this plant.

19 Transmission constraints are also irrelevant
20 to generating capacity. Does a gas fired plant with
21 1049.9 MW turbines fall outside the Commission's
22 jurisdiction because its interconnection agreement
23 accommodates only 49.9 MWs of output? No it would
24 not. This Commission would still have jurisdiction
25 over this project.

1 Finally, permit conditions are irrelevant
2 to generating capacity. Can a developer obtain a
3 county permit to build and operate a 59 MW plant if
4 that permit describes the project as a 49.9 MW plant?
5 Of course not. Only this Commission can issue a
6 permit for that facility. And this case is not
7 different.

8 This Commission has jurisdiction over North
9 Brawley and East Brawley because each facility has a
10 generated capacity of more than 50 MWs. This
11 Commission is not authorized to conclude that it lacks
12 jurisdiction based on any other factor. This
13 Commission must assume its exclusive siting authority
14 over the North Brawley and East Brawley facilities.

15 This is not the first time that a project
16 proponent commenced construction of a power facility
17 without first obtaining the Commission's
18 authorization. Just as in the Luz SEGS decision North
19 Brawley may not be dismantled or even turned off.
20 Assuming jurisdiction in this case means only that
21 this Commission must review both facilities and
22 establish conditions of certification in accordance
23 with the Warren-Alquist Act and Title 20.

24 Thank you very much.

25 CHAIRMAN WEISENMILLER: Thank you. Do any

1 other parties - ?

2 MS. WARDLOW: Good morning. Charlene
3 Wardlow with Ormat Nevada, Inc. out of Reno and we
4 would just like to say that we very much support the
5 Committee's decision on this. We appreciate the
6 staff's diligence in reviewing our projects in
7 Imperial County and we look forward to getting East
8 Brawley permitted and hopefully built. And if we are
9 able to find enough resources to be over 50 MWs we'd
10 be delighted to come back and permit a larger project
11 in Imperial County through you. Thank you.

12 MR. OGATA: Morning, Chair Weisenmiller,
13 Commissioners. Jeff Ogata, Counsel for staff on this
14 matter. Briefly I guess, I wasn't really planning on
15 saying a whole lot, but I think given what we've heard
16 today I feel that I need to respond to a few things.

17 First of all, I believe that staff is in
18 agreement with just about everything that CURE said
19 except for the conclusion. We do not pay attention to
20 the permits. We pay attention to what is actually
21 being built. So in the case of North Brawley which is
22 in existence staff reviewed the fact that there are 5
23 turbines there operating. Reviewed that information
24 extensively, carefully and came to the conclusion that
25 the net generating capacity of that facility is 49.5

1 MWs therefore not within the jurisdiction of the
2 Commission.

3 With respect to the proposed project we
4 looked at the proposed design given to us by Ormat
5 which is what we always typically do. We don't look
6 at any other documents because they're right. Those
7 documents, to a large extent, are irrelevant to our
8 consideration of how we do net generating capacity
9 pursuant to our regulations and therefore the design
10 information that we received from Ormat indicated that
11 they're using 5 turbines and we did our analysis based
12 on that, again, came to the conclusion that the net
13 generating of the facility is 49.5 MWs. So, again,
14 not within the Commission's jurisdiction. We always
15 reserve the right to review any changes to the design
16 so if format works you actually install a 6th turbine
17 than there may be grounds at that point to review that
18 and see whether or not that, at that point, the net
19 generating capacity does exceed 50 MWs. But at this
20 point in time given the design we were given by Ormat,
21 we reviewed that and came to the conclusion that it
22 was not jurisdictional. And we also agree with the
23 Committee's decision that, with respect to trying to
24 aggregate the two projects because of the factors that
25 we've used in the past based upon the Luz decision and

1 other legal advice that these projects should be
2 aggregated for the purposes of jurisdiction.

3 If you have any other further question I'm
4 available. We have staff available to answer anything
5 that you need with respect to (inaudible) information.
6 Thank you.

7 CHAIRMAN WEISENMILLER: Thank you.

8 COMMISSIONER BOYD: Yes, thank you, Jeff.
9 That was very helpful to me in terms of clarifying the
10 issue on the table.

11 CHAIRMAN WEISENMILLER: In terms of any
12 other parties?

13 HEARING OFFICER CELLI: County of Imperial
14 is the only other party. I don't know if there is
15 anyone here from the County of Imperial or on the
16 phone perhaps? No.

17 CHAIRMAN WEISENMILLER: Any public comment?
18 Commissioners?

19 COMMISSIONER DOUGLAS: Just a brief comment.
20 I think that Jeff's comments were correct and very
21 much along the lines of what the Committee believed.
22 CURE brought a number of facts into the proceeding and
23 we looked at those facts and we did our best to put
24 them together and look at them from different angles
25 as see if, to us, they added up to either over the

1 jurisdictional limit or segmenting of what is
2 essentially one project into two and in our view the
3 evidence was not sufficient based on what CURE
4 presented to make that case.

5 We were very careful in the draft order on
6 this Item to say that this Item does not in any way
7 constrain staff from analyzing, further analyzing, the
8 project as built or additional facilities that might
9 someday be argued or be considered to be related in
10 some way to the existing facilities. So we don't want
11 to constrain staff's ability to look into this or
12 other jurisdictional or potential jurisdictional Items
13 or issues but with the evidence presented, in our
14 view, it did not amount to showing that the
15 jurisdictional threshold had been reached in either
16 way.

17 I don't know if the Hearing Officer has
18 anything he'd like to add.

19 HEARING OFFICER CELLI: No. That really,
20 pretty much sums it up. Thank you.

21 COMMISSIONER BOYD: Mr. Chair, I have no
22 questions and having reviewed the Item was swayed by
23 the results of the Committee. Appreciated the
24 Committee and the staff's work. CURE's comments this
25 morning were interesting and raised the question. I

1 think our staff counsel appropriately put that
2 question to rest in my mind. So I'm prepared to
3 support the Committee's action. One I presume that
4 the Committee would make a motion.

5 COMMISSIONER DOUGLAS: I will move — oh, I'm
6 sorry. Commissioner Peterman? Okay.

7 CHAIRMAN WEISENMILLER: I was going to say,
8 I think obviously we take complaint cases seriously
9 and really want to give the parties the opportunity in
10 a complaint case where people have the opportunity to
11 make their case on this. And certainly CURE — we had
12 a lengthy evidentiary hearing on this, listened to the
13 facts, full record was developed through briefing and,
14 again, we just ultimately concluded that we couldn't
15 reach the conclusion that these were jurisdictional at
16 this time. Certainly we don't want to limit the staff
17 that if, in fact, whatever the 6th unit was installed
18 and or if the output was above 50 that we would take
19 action. But at least in this point we just could not
20 reach the CURE conclusion.

21 COMMISSIONER DOUGLAS: I will move Item 4.

22 COMMISSIONER BOYD: Second.

23 CHAIRMAN WEISENMILLER: All those in favor?

24 (Ayes.) Thank you.

25 HEARING OFFICER CELLI: Thank you.

1 CHAIRMAN WEISENMILLER: Let's go back to
2 Item 3 where I believe, hopefully, we have a
3 resolution.

4 HEARING OFFICER VACCARO: Thank you,
5 Chairman Weisenmiller. I'm Kourtney Vaccaro, again.

6 Yes, I'm happy to report that we put our
7 collective heads together and were able to fashion
8 just a very small wordsmithing change to page 7 of the
9 proposed decision.

10 So what we've come up with for your
11 consideration is revising language so that the third
12 full paragraph of page 7 would read as follows:

13 "Based on the forgoing definitions a
14 material false statement under Section 25534
15 in the context of irrevocation proceeding is
16 a knowingly or intentionally untrue or oral
17 or written presentation or declaration of
18 facts, events or opinions made with purpose
19 to mislead or deceive which its important or
20 probable bearing on a Commission
21 determination to certify a proposed site or
22 facility."

23 And all that we did was insert the phrase
24 "in the context of irrevocation proceeding." That
25 seemed to satisfy generally the concerns that were

1 raised by staff as well as some of the concerns that
2 I raised as I sat here a few moments ago.

3 So if the Commission is willing to accept
4 that then I would ask that the Commission approve the
5 proposed Committee decision with this change and that
6 the proposed adoption order would also be modified to
7 reflect this change in the decision.

8 COMMISSIONER DOUGLAS: Commissioners, I move
9 Item 3 with the change that Hearing Officer Vaccaro
10 has read into the record.

11 COMMISSIONER BOYD: I'll second that motion.

12 CHAIRMAN WEISENMILLER: All those in favor?

13 (Ayes.) This Item passes unanimously.

14 COMMISSIONER BOYD: Thank you, Ms. Vaccaro
15 for your help on this. I reviewed this Item. I got a
16 briefing from Ms. Vaccaro earlier and with today's
17 last minute entry of issues I appreciate the
18 Committee's work and acceptance of this good piece of
19 work.

20 CHAIRMAN WEISENMILLER: In terms of the
21 question on the Item not being docketed, I guess I was
22 going to ask Executive Office, Chief Counsel to sort
23 of investigate that and make sure that it doesn't
24 happen again.

25 MR. BELL: Of course.

1 CHAIRMAN WEISENMILLER: Thank you.

2 Let's go on to Item 5 which is Sycamore
3 Cogeneration Project (84-Afc-6c). Mary?

4 MS. DYAS: Good morning, Commissioners. My
5 name is Mary Dyas and I'm the Compliance Project
6 Manager for the Sycamore Cogeneration Project.

7 With me is Kevin Bell and we also have staff
8 in attendance if questions arise.

9 The Sycamore Cogeneration Project is a 300
10 MW cogeneration project certified by the Energy
11 Commission in December of 1986.

12 The project began commercial operation in
13 1988. The facility is located approximately 5 miles
14 north of the City of Bakersfield and 5 miles east of
15 State Route 99 in Kern County.

16 On July 14, 2011 the Sycamore Cogeneration
17 Company filed a petition requesting a modification to
18 the Energy Commission's final decision to include a 12
19 hour tuning startup period.

20 The request is to allow Sycamore
21 Cogeneration Company to operate all four of the
22 combustion gas turbine units in an extended start up
23 period for the purpose of conducting tuning of the
24 units following removal and replacement of combustion
25 hardware. The 12 hour tuning start up period would be

1 subject to the already existing and analyze start up
2 emission limits and the daily and annual emission
3 limits would remain the same even on days when
4 combustion tuning is performed.

5 The San Joaquin Air Pollution Control
6 District issued an authority to construct permit on
7 August 30, 2011 approving the recommended
8 modifications.

9 A notice of receipt was mailed to the
10 Sycamore Post-certification mail list and docketed on
11 July 22, 2011. The notice was also posted to the
12 Energy Commission's website on August 2, 2011.

13 The staff analysis was mailed to interested
14 parties, docketed and posted to the web on October 13,
15 2011 and to date we have received no comments.

16 Staff concludes that with the adoption of
17 the changes to the Air Quality Conditions recommended
18 in the staff analysis, the potential CEQA impacts of
19 the project would be less than significant and the
20 adoption of the proposed modifications will not result
21 in any significant impacts to the environment.

22 At this time staff recommends approval of
23 this petition with the proposed revisions to air
24 quality conditions of certification AQ 18 and AQ 19
25 for consistency with the air district's permit.

1 CHAIRMAN WEISENMILLER: Thank you.

2 Commissioners, any questions or comments?

3 COMMISSIONER DOUGLAS: Just that I was

4 briefed on this Item and I support this Item. I'll

5 look to see what questions there are or comments.

6 COMMISSIONER BOYD: I have no questions.

7 I'm comfortable with the staff's recommendation.

8 COMMISSIONER DOUGLAS: Given that then I

9 move Item 5.

10 COMMISSIONER BOYD: Second.

11 CHAIRMAN WEISENMILLER: All those in favor?

12 (Ayes.) This Item passes unanimously.

13 Thank you.

14 Let's go on to Item 6 which is the Kern

15 River Cogeneration Project (82-AFC-2C). And again

16 Mary?

17 MS. DYAS: The Kern River Cogeneration

18 Project is a 300 MW cogeneration project certified by

19 the California Energy Commission in September of 1983.

20 The project began commercial operation in 1985. The

21 facility is located approximately 5 miles north of the

22 City of Bakersfield and approximately 5 miles east of

23 State Route 99 in Kern County.

24 On July 14, 2011 the Kern River Cogeneration

25 Company filed a petition requesting a modification to

1 the Energy Commission's final decision to include a
2 12 hour start up period.

3 The request is to allow Kern River
4 Cogeneration Company to operate all four combustion
5 gas turbine units in an extended startup period for
6 the purpose of conducting tuning of the units
7 following removal and approval of combustion hardware.

8 The 12 hour tuning start up period would be
9 subject to the already existing and analyzed start up
10 emission limits and the daily and annual emission
11 limits would remain the same even on days when
12 combustion tuning is performed.

13 The San Joaquin Valley Air Pollution Control
14 District issued an authority to construct permit on
15 September 30, 2011 approving the requested
16 modifications. A notice of receipt was mailed to the
17 Kern River Post-certification mail list and was
18 docketed on July 22, 2011. The notice was also posted
19 to the Energy Commission website on August 4, 2011.
20 The staff analysis was mailed to interested parties,
21 docketed and posted to the web on October 13, 2011.
22 No comments have been received to date.

23 Staff concludes that with the adoption of
24 the changes to the air quality conditions of
25 certification recommended in the staff analysis the

1 potential CEQA impacts of the project would be less
2 than significant and that the adoption of the proposed
3 modifications would not result in significant impacts
4 to the environment. At this time staff recommends
5 approval of this petition with the proposed revisions
6 to air quality conditions of certification AQ 17 and
7 AQ 18 for consistency with air district's permit.

8 CHAIRMAN WEISENMILLER: Thank you. Any
9 questions or comments?

10 COMMISSIONER BOYD: Again, Mr. Chairman, I
11 have no questions. I am comfortable with the staff's
12 recommendation, particularly with the indication on
13 the record that the local air district had concurred
14 and approved the proposal. I am totally prepared to
15 support the Item.

16 COMMISSIONER DOUGLAS: Move Item 6.

17 COMMISSIONER BOYD: Second.

18 CHAIRMAN WEISENMILLER: All those in favor?

19 (Ayes.) This Item passes unanimously.

20 Thank you, Mary.

21 Let's look at Item 7 which is Portland
22 Energy Conservation, Inc. (PECI). Possible approval of
23 Amendment 2 to contract 400-09-014. And this shifts
24 funding around the task and this basically will shift
25 \$650,000 surplus to basic other parts.

1 MR. TAYLOR: Good morning, Chairman. Good
2 morning, Commissioners. My name is Gabriel Taylor.
3 I'm an Engineer in the Efficiency Division and I'm the
4 Project Manager for this project.

5 Over the past year the Energy Smart Jobs has
6 successfully trained over 100 California Conservation
7 Corps members to be Energy Efficiency Surveyors and
8 employed them to conduct over 5,000 surveys of
9 commercial refrigeration systems.

10 Those surveys have resulted in over 2,000
11 lighting and refrigeration retrofits completed to date
12 and approximately another 1,000 projects that are
13 currently in progress.

14 This amendment to the program is a no cost
15 proposal to reallocate excess administrative budget
16 into the budget incentives. The program has performed
17 above expectations and as a result of this has had
18 slightly lower than expected costs in a number of
19 program task areas.

20 By shifting the excess into the incentive
21 task the program will be able to fund additional
22 efficiency retrofit projects.

23 I can answer questions about specifics if
24 you have any.

25 CHAIRMAN WEISENMILLER: Thank you.

1 Commissioners, any questions or comments.

2 COMMISSIONER DOUGLAS: Just a brief comment.

3 This has been a successful project on time, in fact
4 under time, and under budget and so what we're faced
5 with here is just taking funding that was allocated to
6 the administrative side of the contract primarily
7 because the contract might have taken longer to
8 complete and throwing it into maximizing the amount of
9 retrofit work that could be done. So I recommend this
10 for your approval and I'll be prepared to make a
11 motion once any comments or questions have been
12 addressed.

13 COMMISSIONER BOYD: Chairman, I have no
14 questions and quite prepared to support Commissioner
15 Douglas who has the courage to move an Item that has
16 the word Portland in it. Inside joke.

17 COMMISSIONER DOUGLAS: Well, I'm pleased to
18 move Item 7.

19 COMMISSIONER BOYD: Second.

20 CHAIRMAN WEISENMILLER: All those in favor?

21 (Ayes.) This Item passes unanimously.

22 Thank you.

23 MR. TAYLOR: Thank you.

24 CHAIRMAN WEISENMILLER: Let's go on to Item
25 8 which is CRHMFA Homebuyers Fund. Possible approval

1 of Amendment 2 to Contract 400-09-016 to augment up
2 to \$5 million. This is ARRA funding. Adrian?

3 MR. HOELLWARTH: Can you hear me now? Good
4 morning, Mr. Chairman and Commissioners. My name is
5 Craig Hoellwarth. I am the Supervisor of High
6 Performance Buildings in the High Performance
7 Buildings and Standards Development Office. And I'm
8 presenting this Item for Adrian Ownby, the Commission
9 contract manager who couldn't be here today.

10 I am here to request approval of amendment
11 to ARRA contract 400-09-016 with the CRHMFA Homebuyers
12 Fund, we'll call it CHF, to authorize augmentation of
13 up to \$5 million for the CHF moderate income,
14 sustainable technology or MIST program.

15 CHF has created a very successful, high
16 performing loan program that has created jobs and
17 saved energy throughout the State of California which
18 the staff continues to support.

19 Some Items related to the performance of the
20 program. This is an ARRA SEP residential contract.
21 The MIST Program provides grants, low interest loans
22 for comprehensive energy efficiency retrofits to
23 moderate income homeowners in 52 counties and 2 cities
24 in California.

25 CHF originally received \$16.5 million and

1 this contract was augmented once with \$6 million of
2 additional funds. CHF presently has some funding to
3 make loans and this amendment will authorize
4 additional funding when it is available. This
5 amendment will create \$5 million in additional
6 spending authority contingent upon funding
7 availability and program performance.

8 All additional funds will be used to provide
9 additional grants and loans and, if approved, the
10 total potential funding for the contract will exceed
11 \$27 million with over 85 percent of these funds
12 providing grants and low interest loans to moderate
13 income homeowners. As of yesterday, November 29, the
14 program has a waiting list of 40 completed
15 applications with potential loans for an additional
16 \$906,000.

17 There are also 96 additional project
18 applications waiting to be completed and begun the
19 approval process for another \$2.1 million. Therefore
20 time is of the essence to move money into the CHF
21 program. Staff believes that any additional funds
22 provided to this program will quickly result in job
23 creation, increased energy efficiency and decreased
24 greenhouse gas emissions.

25 Staff requests approval of the proposed

1 contract amendment and augmentation. Are there any
2 questions?

3 COMMISSIONER DOUGLAS: We have a lot of
4 public comment on this Item. I think I'll hold
5 questions until then.

6 CHAIRMAN WEISENMILLER: Okay. There's a
7 number of public comments. Again, I encourage
8 everyone to say within the three minute time. First
9 in the room I believe is Duane Knickerbocker.

10 Sure. Go to the podium. Please give the
11 Court Reporter - got it?

12 MR. KNICKERBOCKER: Good morning. My name
13 is Duane Knickerbocker, Vice President of Brower
14 Mechanical.

15 The CHF program has directly contributed in
16 the State of California to 200 jobs and indirectly
17 contributed to another 500 when you look at all the
18 insularly items that it's contributed to the creation
19 of heating and air conditioning units, insulation, the
20 vehicles that it's actually done.

21 Our company itself consists of 70 people.
22 The CHF Program has directly contributed in hiring and
23 or the ability to retain staff of 24 percent. So
24 because of the CHF Program we've been able to hire and
25 maintain 24 percent more staff.

1 I've been involved in the home performance
2 or the building science industry for almost a decade.
3 We started with CHF in May, understanding that
4 everything that it takes to actually train everybody
5 from actually taking the call all the way to educating
6 the owner on what a high performance energy retrofit
7 consists of in their home, how to operate it once it's
8 actually been retrofitted. It took us about 3 months.
9 We got going really in July with the CHF Program in
10 providing energy retrofits to homeowners.

11 Since then, we are doing over 10 times the
12 amount of jobs since we started in July as of today.
13 The Program has a huge momentum behind it. I really
14 ask you to really look. We've got a lot of early
15 adopters that are actually now getting their utility
16 bills, seeing the impacts of it, actually now starting
17 to, what we call sneeze, tell their other friends and
18 family members about the advantages of this program.

19 It's really starting to catch a lot of
20 ground. As an energy advisor to homeowners we really
21 look at what we call the low hanging fruit. What are
22 those things that we can do that have a very low cost
23 that actually benefits the homeowner in a great need.

24 At the end of it, we're looking at how do we
25 give the customer more disposable income? And we all

1 know if the customer at the end of the month has more
2 money to spend they're going to help stimulate the
3 economy.

4 I ask you to please look at what's really
5 happening with this program. It's a wonderful
6 program. It's actually benefited us in many, many
7 different ways. If you look at what it actually takes
8 for a homeowner to understand what does it take to
9 provide a deep energy retrofit, it's education of the
10 customer and it's having a finance mechanism to fund
11 these projects for the homeowner.

12 You look at a homeowner now, how did they
13 get that information and make that smart decision?
14 Maybe they went to a home show and we see it so often
15 where they've got this bright light shining on a piece
16 of aluminum foil and you're going to save 40 percent
17 if you put this aluminum foil in your attic. Or they
18 talk to the whole house guy and you're going to save
19 20 percent.

20 Our average customer, after we're done, they
21 save 29.9 percent on their total energy consumption of
22 a home. We see it firsthand. They need to be
23 educated and they need a loan mechanism to get these
24 energy retrofits funded.

25 We really appreciate the program and what

1 you've done for us with the monies that you've put
2 into the CHF Program. Again my name is Duane
3 Knickerbocker. If you have any questions or anything,
4 please do not hesitate to give me a call. 916-624-
5 0808. I will help you out with anything I possibly
6 can.

7 CHAIRMAN WEISENMILLER: Thank you. Thank
8 you for being here and certainly thanks for your
9 efforts on keeping energy efficiency in our
10 communities.

11 COMMISSIONER PETERMAN: And good to hear
12 about the job growth in your own company.

13 CHAIRMAN WEISENMILLER: Exactly. Rick
14 Wylie.

15 MR. WYLIE: Thank you, Commissioner and CEC
16 staff for your ongoing support of the CHF and MIST.

17 Rick Wylie, President of Beutler
18 Corporation. We are also a program partner in this, a
19 contract partner, with the MIST program.

20 What a fantastic story. What a great book.
21 What a great movie this would make. This is truly a
22 great public, private partnership story. Its roots
23 are Bill Pennington and his team who for years have
24 been looking to engage home energy renovations not
25 just new construction codes. This is formally

1 expressed in the California long term energy
2 efficiency strategic plan which embraces the goal of
3 20 percent reduction of home energy by 2015, 40
4 percent by 2020.

5 In 2009, the ARRA funding provided a huge
6 windfall opportunity for California energy program
7 goals. The Commission tackled the momentous task of
8 authorizing the ARRA funds, shorthanded and challenged
9 and authorized a wide spectrum of programs to prime
10 the pump with many long term programmatic goals.

11 CHF with Beutler as its contractor partner
12 received the original award in January of last year,
13 2010.

14 The program was originally slated to
15 commence in April of 2010 giving it plenty of time
16 however contract complications and work overload
17 prevailed. The program was finally ready for a pilot
18 launch in January in 2011. By early March all of the
19 final obstacles had been removed and aggressive
20 contractor outreach began. This is only 9 months ago.

21 Since that time the program by all accounts
22 has been an unprecedented success. As of today there
23 are 55 participating contractors throughout the state
24 and 39 of these contracts have initiated contacts.
25 Almost 900 homes have been done or are in the pipeline

1 and it has consumers all of the available \$20.1
2 million with, as Craig mentioned, 136 jobs sitting in
3 the wings waiting to be approved.

4 The average home savings is an average 28
5 percent and the total annual BTU savings for the 900
6 homes will be over 33 billion BTUs per year. As of
7 the latest report of the participating contractors,
8 almost 200 direct jobs have been created by the
9 program and at its current pace of about \$50 million a
10 year it's supporting in the entire economy about 550
11 jobs. This thing is doing what it was supposed to do.

12 It also has some unique aspects as a
13 program. It is 100 percent audit in, test out program
14 using the approved EnergyPro modeling software. It
15 provides HERS II scores, both before and after, to
16 each and every approved home. We believe that this is
17 the first and only program to do so.

18 Cash flow neutral requirements assure energy
19 efficiency values are properly addressed and homeowner
20 investments are sound. This is a critical consumer
21 protection mechanism that does not exist in any other
22 programs.

23 It out performs the ARRA BTU per dollar
24 investment requirements by an estimated 30 percent.
25 It has crazy low administrative costs. About 5

1 percent of the total contact. Compare that to any
2 other program. It is a revolving loan fund. \$1 here
3 equals \$10 worth of work over the years to come. Most
4 other programs are one and done.

5 This loan fund can be used as collateral for
6 private investor funding once we've received formal
7 approval from the Energy Commission. We believe that
8 currently \$20 million fund can leverage a new \$100
9 million fund for post-March 2012, an additional \$15
10 million between now and then could add an additional
11 \$75 million in the investment funds.

12 Don't let this story end badly. Your
13 actions will lead to one of two possible endings. If
14 no new money is provided the program stops while
15 efforts to attract private investors are sought.
16 Hundreds of jobs, the infrastructure and momentum will
17 be lost that may never be fully regained. Or if
18 adequate new money is allocated, the program retains
19 strength.

20 Other funds are attracted to support the
21 program through 2012 and beyond and we attract federal
22 attention and become a pilot for a national home
23 energy renovation program.

24 We'd really ask the Commissioners and the
25 staff to consider 8 actions for us. Number 1:

1 identify and allocate as much as you can in dollar
2 today to CHF. They are willing, CHF is willing to
3 immediately restart application processing for any
4 funds that you can commit, even if the receipt of
5 these funds are delayed.

6 We request that you add at least an
7 additional \$10 million contract amendments at your
8 next December 14 Business Meeting so that as you free
9 up additional funds they can move quickly into this
10 program.

11 Tree, we ask you to compare all current
12 unspent funds within your ARRA program portfolio
13 against the success of MIST and take actions that
14 optimize the remaining funds accordingly. Let's make
15 sure we look very good to the Department of Energy
16 Auditors when they come calling.

17 Four, dedicate a CEC champion or liaison to
18 join CHF and their contractors working to keep the
19 program funding flowing through any and all
20 appropriate means. We need every Tuesday with CHF;
21 we'd love to have CEC participation and support.

22 Five, use your influence to encourage the
23 State Treasurer's Office and CAFTA to consider
24 allocating some or all of the \$25-50 million in their
25 loan funds to MIST. They're working hard at

1 reinventing a wheel that A- probably won't roll as
2 fast as this one and B- is only starving this program
3 out of needed funds.

4 Six, use your influence to encourage the
5 CPUC to consider loan funds for MIST.

6 Seven, use your influence to encourage the
7 Governor to consider making state bond funds available
8 to this program. If this program were fully funded we
9 could renovate 3.8 million homes over 10 years,
10 creating 108,000 lasting jobs and saving over 143
11 trillion BTUs per year.

12 Eight, let's go for the big time. Work
13 together with Congresswoman Matsui who is already
14 engaged on the rest of the federal government to
15 renovate 36 million homes over 10 homes nationwide,
16 creating over 1 million jobs and saving almost 1,400
17 trillion BTUs per year which is the equivalent of over
18 5 percent of our national, annual oil consumption.

19 In closing, again, we'd like to thank you
20 for what you've done so far for MIST. It's been
21 tremendous and would like to respectfully ask you to
22 work with us to do much, much more. Let's make this a
23 fantastic fairy tale story ending. Thank you.

24 CHAIRMAN WEISENMILLER: Thank you for being
25 here today. Commissioners, any questions? Okay. Not

1 yet. Let's go on to John Orr.

2 MR. ORR: Chairman Weisenmiller and
3 Commissioners, my name is John Orr and I serve as the
4 President and CEO of the North State Building Industry
5 Association comprised of over 450 member companies
6 that build and remodel homes in 20 counties in
7 Northern California.

8 The Association fully supports the CHF
9 request for more ARRA funds. The program has proven
10 its ability to provide financing to low and moderate
11 income homeowners and to make effective every
12 conservation improvements.

13 Since the ARRA money has to be spent by the
14 first quarter of next year and since it is in
15 everyone's best interest that the money be spent to
16 benefit Californians in their energy efficiency
17 conservation efforts, we believe the best and wisest
18 course is to allocate the remaining funds to those who
19 have demonstrated an ability to responsibly and
20 effectively expend those funds.

21 The CHF Financing Program has a proven track
22 record as a responsible program capable of getting the
23 results that this Commission and federal government
24 intended.

25 We urge you to act in support of this

1 program which creates employment opportunities while
2 increasing energy conservation. Thank you for your
3 time and consideration.

4 CHAIRMAN WEISENMILLER: Thank you. Michael
5 Day.

6 MR. DAY: Chairman Weisenmiller,
7 Commissioners, staff. Thank you very much for funding
8 this. I'm Michael Day. I'm the President of Rockwood
9 Consulting. I'm Principle there.

10 We were the group that helped CHF and
11 Beutler take their idea about what they wanted to do
12 and actually turn that into a program. We were the
13 program architects for this. Yes, this is a moment of
14 proud daddy syndrome, standing before you.

15 In addition to some of the things, we wanted
16 to cover a few points. First is that residential
17 performance contracting, deep comprehensive energy
18 efficiency retrofits, with test in and test out has
19 been a goal of people in this building and in policy
20 groups for probably -- I've only been around since the
21 late 90s so I know it's been around that long.

22 And we're talking about HERS rating. We're
23 talking about the whole infrastructure that needs to
24 be developed to deliver this. From the first people
25 to talk to them to the builder auditors to the

1 building modelers to the building modeling tools to
2 the test out auditors to BPI Certification. That
3 whole infrastructure needed to be there. For the
4 first time we actually have that up and working and
5 running in a cost effective manner, where homeowners
6 are able to get these deep energy retrofits and use a
7 leverage mechanism so that their savings can pay for
8 the retrofits that benefit them and benefit society at
9 large.

10 So just think about that for a second. How
11 long we've been talking about little parts of this and
12 now we've got all the parts of this put together in
13 the engine and it's up and running.

14 And I just wanted to recognize staff and all
15 the people who've taken an idea that was on paper and
16 actually made it work. It's been a long time coming
17 but here it is. Just take a second and recognize how
18 cool that is.

19 Second part is is that we are exceeding DOE
20 recommendations. The 10,000 BTUs per program dollar
21 spent or as they put it in their arcane language 10
22 million BTUs per \$1,000 program. Who knows why they
23 did that.

24 We're exceeding that by about 30 percent.
25 I'd actually have to disagree with Mr. Wylie over

1 here. The first 272 projects first CHF that we have
2 good information for because they've completed all the
3 paperwork, out of those 282 projects it was just under
4 21 billion BTUs of savings. So we're talking about a
5 lot of savings on a per home basis and the
6 implications are that those numbers are actually going
7 up on a savings per dollar basis.

8 Another part about this is that it's no
9 secret that there are people who are opposed to the
10 concept of government intervention or participation in
11 energy efficiency. One of the things this has that a
12 lot of other types of projects don't is direct
13 attribution. We can trace every dollar that's spent
14 and say it's that furnace, it's that home whose air
15 leakage was X and now it's Y. It's the duct leakage
16 that was 22 percent and now it's 4 ½. We have
17 documentary evidence of what it was before, what it
18 was afterwards and that's going forward. That's,
19 unlike a lot of programs, this one's bullet proof.
20 You can point to every dollar and point exactly to the
21 BTUs and there's no question of attribution.

22 So MIST is not only doing something good,
23 it's helping the portfolio overall and it's helping
24 the portfolio with really gold standard. Not just in
25 terms of what it's developed for infrastructure but

1 also what it's delivered.

2 It's received accolades from a lot of
3 people. Commissioner Douglas, you were there when we
4 had DOE coming out and saying, "Wow. This is a great
5 program. We'd like to see this nationwide." We've
6 seen the stuff happen on workforce development.

7 And I'd just like to bring up a couple more
8 points. One is, Commissioner Douglas, in October of
9 last year, you were talking about when everything
10 happened, when California statewide communities and we
11 were taking the money from that and moving it over to
12 local government, Commissioner. You were expressing
13 concerns, and rightfully so, about how fast is this
14 money going to get into the economy.

15 The idea behind the stimulus bill was that
16 it got out there fast. That was early 2009. Now
17 we're at the end of 2011. One of the things about
18 MIST is that dollars that are put into it, from
19 whatever source, whatever other program, however
20 they're transferred into them; we've got a backlog of
21 projects in this program that will soak them up.

22 Furthermore, if we can get to the point that
23 we have the authority for CHF to use these loans they
24 want, since April we've been talking about using those
25 as collateral for a loan loss reserve fund which will

1 extend this and multiply the effects for years to
2 come and that's what Rick and some of the other people
3 have been talking about.

4 We really want that authority. We need that
5 to move forward with the potential investors.

6 So that's the other critical part. A, you
7 get the money out there now but not only do you get it
8 out there now and it's working but you also get it out
9 and have it continue to work into the future.

10 And the last point that I'll make is this.
11 Chair Weisenmiller, you were talking last month and
12 you said something along the lines of -- or I think it
13 was in August when we came for more money, you were
14 talking about how there were A-team performers out of
15 the whole portfolio. And I'm not casting dispersion
16 towards the way anybody else designed a program or how
17 it was executed.

18 You make the paper airplane and you throw it
19 out there and there's a lot of wind that affects it so
20 there's as much luck as anything else. But the fact
21 is that there are some programs that have been A
22 players. MIST is absolutely an A player. The
23 corollary to that though is that some are not A
24 players through, largely no fault of their own.

25 We have to figure out the mechanism by which

1 those dollars for none A players can get back to the
2 ones that are working well. And I'm not going to say
3 that there aren't problems with that. For programs
4 that have had administrative expense but haven't had
5 the performance in the field, how are we going to meet
6 the DOE requirements for BTUs. Well that's where MIST
7 can help out the final time. Because of the ability
8 to use it now and leverage it later, it's going to be
9 able to provide a whole bunch of additional BTUs saved
10 per program dollar spent and it can help overcome that
11 problem as well.

12 Again, thank you very much for funding this.
13 It's been great and if anybody or your staff has
14 questions about it, I'm happy to offer any advice or
15 consulting that I can free of charge to the Commission
16 just to help get this out there. Again, I'm a proud
17 daddy.

18 CHAIRMAN WEISENMILLER: Thank you.
19 Congratulations.

20 COMMISSIONER DOUGLAS: Chair Weisenmiller, I
21 think I actually can't resist asking this proud daddy
22 a few questions.

23 First of all I'd like to thank you for your
24 work and CHF's work on this program. I'm sort of
25 bleeding into comments I was going to make after the

1 public comments but this is a tremendously successful
2 and good program and it's a testament to both a sound
3 program concept and extraordinarily good
4 implementation from some of the top notch companies
5 that are involved. Beutler, Brower high on that list
6 and also the highly skilled workers that state and
7 others have helped trained and brought into this
8 workforce. I hope we'll hear from some of them soon.
9 Some of whom I've had the pleasure of meeting.

10 We are now, this is good news not bad news
11 from our perspective, we are now administering a
12 dwindling amount of stimulus funds and there probably
13 will be some allocations and there probably can be,
14 and that's why we're here today, some augmentation or
15 potential augmentations. That's why we're here today
16 is to put some room in the contract so augment it.
17 But as we look at how to sustain this program or any
18 other program over the long term one of the things
19 that's going to be needed is very detailed cost
20 effectiveness calculations. That's one thing that you
21 may be able to help with. We know what a great story
22 it is but in order to go to any potential funding
23 source and suggest that they invest in other \$20, \$30
24 or \$40 million and this is not money that we have.

25 We're going to need basic information,

1 average cost over the program, marginal cost, scale
2 up potential, I don't know if you agree with Mr.
3 Wylie's 3.8 million homes over 10 years or whether you
4 think it could be more or less.

5 MR. DAY: I think that's usually - I think
6 that he's pretty close. He's within the penumbra of
7 certainty there. I hesitate to say an exact number
8 but what we've been talking about since April is
9 taking the existing loans, and I'm getting a little
10 over here, but taking the existing loans and turning
11 around and using those as collateral as a loan loss
12 reserve. Using the loans that were made and are
13 currently performing, putting those up as collateral
14 for financial institutions to make other loans
15 themselves under the (inaudible) of the program.

16 So it would be slightly higher interest
17 rates, little bit longer term is what we're doing.
18 That's a different animal of a loan loss reserve than
19 just taking money, sticking it in the bank and letting
20 it get moldy and dusty. This is putting it to work
21 and then using those living, breathing, performing
22 loan portfolio itself as a loan loss reserve. That's
23 pretty interesting but, again, the critical part for
24 us is that we've been so concerned, all of us, in the
25 process, both in the Commission and private industry,

1 have been so concerned with getting the programs out
2 that the stuff that happens later has not quite risen
3 to the top of the high pile of papers. And what we
4 really need is formal authority to use those loans
5 that have been made as collateral. Once we have that
6 we're off to the races and we can start talking to
7 them. We've done a lot of the analysis you've already
8 discussed and we'd be happy to share that with you and
9 your staff.

10 COMMISSIONER DOUGLAS: I'd be happy to see
11 that analysis both in terms of cost effective,
12 marginal versus average cost, potential scale up and
13 the leveraging proposal that you have. Obviously when
14 you're looking at 0-3 percent loans you can't probably
15 leverage as much as if you were looking at higher
16 interest rates loans but on the other hand this
17 program reaches moderate income Californians and
18 that's a very good thing.

19 So I'd love to hear from you further on
20 that. Let me ask just one more question. How many of
21 the projects that this program has signed up have been
22 completed? Do you know the answer to that? You may
23 not.

24 MR. DAY: I'm going to turn to Mark. I
25 don't think Mark you were intending to speak but -

1 MR. LOWDER: 320 -

2 COMMISSIONER DOUGLAS: I think you need a
3 microphone, if you could.

4 CHAIRMAN WEISENMILLER: And please identify
5 yourself for the record.

6 MR. LOWDER: I'm Mark Lowder, the Director
7 of Housing Financing for CHF. Thank you for having me
8 here. I think the question your asking has to do with
9 our pipeline and the projects in it.

10 We've stopped it with 840 projects in some
11 phase. Of those 846, 328 have been completed, with
12 7.8 distributed. Would you like me to go further?

13 COMMISSIONER DOUGLAS: I think my next
14 question - that perfectly answered the question I
15 asked. My next one would be how long do you think it
16 will take to do the work to complete the rest of the
17 projects in the pipeline?

18 MR. LOWDER: Well, we've got another 340 of
19 those 846 projects are either complete and waiting to
20 close escrow or the work is underway and will be
21 closed shortly. I'm just guessing here but 3-4 weeks,
22 maximum. And then we have another 178 for 3.6 million
23 in which the process has just started. But from start
24 to finish the project averages about 10-11 weeks.

25 These I don't know how long, these 178, I

1 don't know how long they've been in the pipeline.

2 But I want to add two things if I can.

3 COMMISSIONER DOUGLAS: Absolutely.

4 MR. LOWDER: We've got about 150 projects
5 for about \$3.2 million that have already applied for
6 which we have no funds and we've stopped that. And in
7 addition to that I might add your attorneys have
8 indicated to us that we're a third party
9 administrative revolving loan fund so from the DOE
10 perspective, the federal perceptive money is given to
11 us by CEC are considered spent when they're given to
12 us. Nevertheless, we've been doing about a \$1 million
13 a week for the last four weeks when we pulled the gate
14 down about two weeks ago.

15 COMMISSIONER DOUGLAS: I want to say I'm
16 glad that you have hopped up to answer questions.
17 You've been, CHF has been a great partner in this and
18 we appreciate you bringing us such a great proposal
19 and we appreciate your administration ability and your
20 ability to realize the potential. We do know that
21 this is a third party revolving loan program and at
22 the same time given that this is stimulus money we
23 also are very eager to see money spent and jobs done
24 as you indicated you are as well.

25 Let me ask one more question. The counties

1 that are eligible for participation in this program
2 are members of RCRC, the Regional Coalition of Rural
3 Counties, is that correct?

4 MR. DAY: Yes. Let me address our
5 membership. CHF is a Joint Powers Authority made up
6 of 31 rural counties. They're regular members. They
7 are also members of a related non-profit organization
8 called the Regional Counsel of Rural Counties but the
9 JPA is separate. There are 31 regular members. We
10 also have another 21 associate members who don't have
11 voting privileges but they do, they are eligible for
12 our program. So we have 52 of Californian's 58
13 counties. The other 6 can join; it's a matter of
14 whether they want to. This program has stimulated
15 interest in CHF and joining as an associate membership
16 by a number of counties. Counties that aren't members
17 are Orange and LA, Santa Barbara, Santa Clara, San
18 Francisco and Marin and a couple of those counties are
19 interested in joining now. I might add the city of
20 Palmdale in LA County is our member. There is also
21 the city of San Jose and Santa Clara as our member.
22 So we cover most of the state of California and I
23 would imagine that we're going to see another couple
24 of counties join in the near future.

25 COMMISSIONER DOUGLAS: Great. Thank you. I

1 think those are my questions for now. I appreciate
2 your comments.

3 MR. LOWDER: Thank you, ma'am.

4 MR. DAY: Thank you, Commissioner.

5 CHAIRMAN WEISENMILLER: Thank you. Mark
6 Fischer.

7 MR. FISCHER: Good morning, Commissioners.
8 My name is Mark Fischer and I'm the President of Green
9 Home Solutions by Grupe. Our story is a little
10 different. We were homebuilders for 40 years and when
11 the housing market turned we decided to get into home
12 performance contracting.

13 When we started, we started about two, two
14 and a half years ago, and had a fairly good success in
15 the terms of the number of jobs we were doing but
16 what's interest is that our average ticket, our
17 average job size, was about \$7,000.

18 So while we felt like we were doing a good
19 job for our customers, we weren't really able to
20 address all of their needs, right? And the big
21 limitation was financing. Everybody wanted to do as
22 much as they could do but the limiting financing was
23 what they could afford to do. How much money could
24 they provide to pay for the services in the CHF.

25 Our average ticket now was gone from \$7,000

1 to just under \$20,000. And when we leave a job, when
2 we leave a house, we feel like we've really done a
3 complete job. Including air sealing, duct sealing,
4 replacing the unit if needed and insulation.
5 Everybody has quoted here the amount of energy
6 savings. We just had a - one of our first homeowners
7 to take us up on the program happened to be the
8 President of the Sierra Club in Stockton, a guy named
9 Dale Stocking. I don't know if you guys know him.

10 And he was very skeptical at first. The
11 *Stockton Record* just had a front page article on him.
12 He did about \$40,000 worth of work, saving just under
13 40 percent on his annual energy bill. Couldn't have
14 had a better advertisement.

15 I don't have a lot more to add that hasn't
16 been said here already in terms of success of the
17 program. CHF is an excellent administrator. As a
18 contractor it's rare that we can enter into a program
19 that's been so well laid out, you can go to their
20 website if you have questions. Can I do this? Can I
21 do that? It's just been a phenomenal experience.

22 What I do want to address is that let's not
23 let this thing end. I think Rick Wylie said this has
24 been a great story. Let's give it a happy ending.
25 And Mark Day kind of alluded to the fact that one of

1 the things that we're really interest in is taking
2 this pool of funds and going to private capital
3 markets and making this a sustainable thing that can
4 work on its own. I think that's the message that I
5 want to leave you with. Thank you very much for your
6 time.

7 CHAIRMAN WEISENMILLER: Thanks for being
8 here. Mark Stout.

9 MR. STOUT: Thank you for holding this
10 hearing and considering the funding for CHF. I'm the
11 President of Apollo Energies and we started the
12 company roughly a couple of years ago to get into the
13 solar generation and energy efficiency.

14 And my own personal story is that I was
15 spending over \$400 a month in utility bills and
16 through some minor modifications got that down to
17 about \$120 and I was impressed. I also didn't think I
18 was unique. So I set about trying to help other do
19 the same thing with their utility bills and see if we
20 can't get everybody more energy efficient. I got
21 involved with the industry and CHF. What I learned of
22 CHF, up into that point of time it had been hard to
23 get people to actually become energy efficient or even
24 entertain the thought of it. So CHF has been able to
25 get people into the door, into the program and become

1 energy efficient. And when they have they've
2 actually had that wow factor. They didn't know that
3 their house could be so comfortable. They didn't know
4 that the air quality inside would improve and they no
5 longer have allergies. It's the whole gambit of
6 things that come about because of it.

7 A lot of these homeowners that we're finding
8 would not have had this opportunity at all, even
9 though they want to. They desperately need to be able
10 to become energy efficient and they want to become
11 energy efficient. There's nobody that we've come
12 across and we've done over, in the last six months,
13 about 60 projects, not one has said no. That "I don't
14 want to do this. It's too costly. I don't want the
15 loan." And we're in a bad economy so you would like
16 that's exactly what they'd say but it's the exact
17 opposite. The program has really, really been a
18 godsend. Not only to the homeowners but to the
19 contracting community. Directly related to jobs,
20 those monies that are being spent on employment is
21 actually trickling down into the economy so that's
22 actually improving our economy locally and at the
23 state level and this program just needs to be funded
24 and ways to keep it funded going forward. We realize
25 that the ARRA funding rules shortly expires and

1 that'll be gone and we don't want to see the program
2 end as a result. So we're actively looking at ways to
3 keep that going.

4 Additionally the CHF is actually one of the
5 programs that we like and the reason that we're
6 excited over it is it takes from end to end and keeps
7 an aspect of controllability and accountability. We
8 do test ins. We're not contractors but we are raters.
9 We're both certified as HERS and BPI. So when we get
10 involved we take the homeowner throughout the entire
11 process and we analyze the beginning of test in and we
12 actually do the test out. We actually are bringing
13 jobs to contractors that otherwise wouldn't have had
14 the jobs. Some of these guys are too busy and don't
15 take them. Others are glad to have them.

16 But when we're in there and we're talking to
17 the homeowners, they're liking the fact that there is
18 some accountability going to the contractor about how
19 the money is being spent and that they're actually
20 being taken care of in the sense that the works
21 getting done that they want to get done and it's
22 getting done in a timely manner and that people aren't
23 getting paid for not doing what they're supposed to be
24 doing. That's critical for most homeowners. Even
25 though this is free money, it's low interest money as

1 far as some people would be considering it. It's
2 something that has actually been a boon to the
3 industry. Like I said, we've had 60 projects come
4 across in the last 6 months that not one of them have
5 not liked what they've seen and they're actually
6 starting to talk to other people. Prior to that I had
7 a hell of a time trying to get anybody to even know
8 what Energy Upgrade California was, why I would want
9 to be energy efficient. I had a woman tell me at an
10 Energy Upgrade California workshop that she had a
11 \$165,000 energy bill and thought that was low. When I
12 asked her if she wanted an \$80 utility bill she said,
13 "Yeah. How do I go about doing that?" I explained
14 the CHF loan program to her and her eyes just opened
15 up. Up until that point in time she thought it was 1
16 - she had a low bill, 2 - it would be too costly to be
17 energy efficient. When I explained the program she
18 goes, "Oh, really. I like that. How do I get
19 started?" And that's the program and that's how
20 energy efficient CHF is helping other people become.
21 So it's critical funding and \$5 million is not enough,
22 to be honest with you.

23 If you can scrounge up some more energy and
24 some money dollars to fund the program it would be
25 money well spent. That's what I have to say about

1 that. Thank you.

2 CHAIRMAN WEISENMILLER: Thank you. Thank
3 you for being here. Ryan Connally.

4 MR. CONNALLY: Thank you, Commissioners for
5 allowing us this opportunity this morning. My name is
6 Ryan Connally. I am the Lead Faculty in the
7 Construction Technology Program at Cosumnes River
8 College. I feel honored to be an ambassador for the
9 community college, the California community college
10 system here.

11 I'm proud of the way our particular program
12 has been responsive to the regional needs. I was
13 charged with creating a program that would help meet
14 these regional needs and I'm very proud to say that, I
15 think in a very timely manner, have been able to put
16 together a program that meets California type of
17 curriculum standards, national BPI standard in
18 particular. We've done it in a way that the program
19 helps people like dislocated construction workers get
20 back into the industry quickly through this type of
21 certification as well as programs for entry level
22 people.

23 I think the most important that I wanted to
24 make sure that you guys were aware about was that the
25 funding mechanism that's driving this industry right

1 now, it's very critical and one of the things that I
2 wanted to boast about was our jobs placement rates.
3 This whole thing is about job creation. Commission
4 Douglas, I think I heard you use the word scale up. I
5 think I took it in the right context. That's part of
6 what I felt my responsibility was to help the region's
7 scale up with people who were certified to do this
8 work to meet this new demand.

9 I'm proud to say that our numbers are
10 basically the result of this industry being here,
11 viable jobs that these students coming out of my
12 program are getting. I'm actually proud to say that
13 one of them's here in the room sitting behind me. I
14 think I've covered everything that I wanted you guys
15 to know. I get the daily experience of seeing what
16 it's like, these student's stories, they're coming in,
17 they're trying to work and this program is what's
18 creating jobs. I see guys coming in, working hard,
19 men and women and then to have it out there. We're
20 running about 90 percent placement rates which is
21 unheard of, I think, in this economy right now with
22 those that have achieved a national certification
23 program. In order for that to continue, I really hope
24 you guys consider continuing to fund this, keep this
25 industry alive right now. Thanks.

1 CHAIRMAN WEISENMILLER: Thank you for being
2 here. We certainly want to thank you for your
3 efforts on training and education. I would note that
4 when I was at 29 Palms, the Marine base down there,
5 they said they're actually having trouble finding
6 workers who are trained to maintain a LEED certified
7 buildings that are being built on the bases. So that
8 may be another opportunity for training options for
9 people.

10 MR. CONNALLY: Thank you. Just to be quick,
11 we have Los Rios in particular but all throughout the
12 state, the community college system has been tasked
13 with clean energy, workforce training that type of
14 stuff. And Los Rios, I think, is being heralded as
15 doing quite well with everything from green building
16 certification as well as clean diesel fuel. The whole
17 nine yards. My task has been specifically energy
18 efficiency. I appreciate the opportunity to tell you
19 how it's been going.

20 CHAIRMAN WEISENMILLER: Thanks again for
21 being here.

22 COMMISSIONER PETERMAN: Chair, before we
23 move on, if I may, I don't know if his student is
24 planning to give a public comment. I believe it's the
25 woman in the front. But I would like to see if she

1 would like to say something for a second because
2 she's in my line of sight and looks very proud and
3 those on the phone don't have that benefit of seeing
4 her smiling face but I wanted to acknowledge her.

5 COMMISSIONER DOUGLAS: If you could come
6 forward that would be great. And let me just say to
7 the past speaker, thank you for your work because
8 you've been an essential part of this. The delivery
9 of affordable training to people who need jobs is
10 critical to make this industry work. Please go ahead.

11 MS. CANNON: First, I'm going to start off
12 with saying that I'm a terrible public speaker and I
13 didn't get the memo on the dress requirement today so
14 I'm just wearing my work blues.

15 My name is Linnzi Cannon and I'm a Field
16 Energy Analyst for Advanced Comfort and Energy
17 Systems, also known as ACES, which is for Rick Wylie
18 right here. I'm a wife. I'm a mother of four and
19 like many others I was out of full time work for two
20 years so I ventured on to a new career path in the
21 green energy field which gave me hope for the future
22 in a last (inaudible) profession.

23 In addition, I benefited from the
24 opportunity to work with many other individuals who
25 were concerned with the sustainability of our

1 resources. Those 36 other individuals include field
2 analysts, like myself, modelers, estimators,
3 installers, advisors, our support staff. Our team
4 assessed 765 homes, 288 homes have been made more
5 energy efficient where we obtained an average of 75
6 point improvement on the HERS Rating per home.

7 My hope is that we do not stop there. My
8 hope is that we do not stop there. My hope is that we
9 have the opportunity to educate more homeowners.
10 Through my field experience I have seen a vast number
11 of homes which require energy upgrades. They need
12 improvements such as solar, a new roof, windows,
13 insulation, air sealing, tankless water heaters and
14 downsizing of their current heating and air
15 conditioning equipment.

16 Without a program like this many homeowners
17 are unable to get the help that is needed to improve
18 the performance of their existing homes and get the
19 whole house approach as a system. For example, Mrs.
20 Shumway, an elderly woman living on a fixed income. I
21 did an assessment on her 1950 home this past summer
22 which badly needed insulation, air sealing and
23 replacement of duct work. It was literally hotter
24 inside her house than it was outside. Without this
25 program she would have been unable to live in comfort

1 while lowering her energy costs. Improvements like
2 these are still needed. Funding is still needed.

3 Two weeks ago I did an assessment on Mr. and
4 Mrs. Urban's house who have a new baby in the home.
5 Husband works and wife is unemployed. Their utility
6 costs are over \$500 per month. To operate a failing
7 system with 33 percent duct leakage. They have a very
8 leaky house which needs air sealing and could benefit
9 from solar. They are desperately waiting for their
10 approval to be able to make the improvements needed
11 for the comfort of their home and pocketbook.

12 It definitely takes a team effort to meet
13 our goal and we need your support to help our
14 homeowners like (inaudible) family. Should you do
15 that you'll have peace of mind knowing that we will
16 get the job done. We have done this job. We are
17 proof this program works. Sure, I want to continue
18 working for ACES in the green energy field but more
19 importantly I do not want this last year of hard work,
20 time and effort of all 36 of us to reach a dead end.
21 I am hoping that through ACES in regard to the Energy
22 Upgrades of California that the sky is the limit.
23 Thank you.

24 COMMISSIONER DOUGLAS: Thank you for your
25 comment. Can I ask you where you worked before you

1 came into this field?

2 MS. CANNON: I was working for USAA
3 Insurance which is a property and causality insurance.
4 And they pulled their business out of California.

5 COMMISSIONER DOUGLAS: I see. Thank you and
6 it's great that you've been able to move into this
7 field.

8 COMMISSIONER PETERMAN: I'll also just add I
9 like your work blues. If we had something like that
10 it might make it easier for me to get dressed in the
11 morning so thank you for coming to speak.

12 [LAUGHTER]

13 MS. CANNON: Thank you.

14 CHAIRMAN WEISENMILLER: Thanks again for
15 being here. Pat Rush.

16 MR. RUSH: Good morning. I'm Pat Rush with
17 Clarke & Rush Mechanical. How you doing this morning?

18 I was sort of a late bloomer for when it
19 came to the CHF program. I was amazed once I did get
20 involved in the program, the amount of effort and
21 thought that has stimulated my company. I was amazed.

22 Unfortunately, my old man sometimes turned
23 around and mentioned a couple of different things to
24 me. He said sometimes look out for no brainers and
25 this is a no brainer program. This no brainer program

1 is at 3 percent as we know. There are many, many
2 customers out there right now looking for that 3
3 percent. I'm at hold right now. We need to get more
4 money in this program.

5 The ability to go out and give them 3
6 percent financing and put an energy management program
7 into their home and save them 20 - 30 percent or even
8 more is a great process. Then the ability to turn
9 around and have great rebates right behind it is a no
10 brainer.

11 We have lots of jobs and lots of energy
12 savings that we are doing with this program. If new
13 monies are put in this program we'll use it quickly
14 and put it in the economy very quickly and spend it
15 quickly. We have a large backlog right now and
16 homeowners are waiting for new monies. Thank you.

17 CHAIRMAN WEISENMILLER: Thank you. Mark
18 Lowder.

19 MR. LOWDER: Mark Lowder, Director of
20 Housing Finance for CHF. I just wanted to make myself
21 available for questions and if that need has been met
22 then I have nothing more to add.

23 CHAIRMAN WEISENMILLER: Okay. Terri
24 Carpenter.

25 MS. CARPENTER: Good morning, Commissioners.

1 My name is Terri Carpenter. I'm with the Sacramento
2 Employment and Training Agency. Our agency is your
3 workforce development delivery of services. We are
4 the ones that are responsible for preparing the
5 pipeline for future industries and future jobs.

6 One of the benefits that we were able to
7 take immense opportunity and expand that to benefit
8 those like Linnzi and Ryan from Cosumnes River College
9 is we were a recipient of 2 or 3 Clean Energy
10 Workforce Training Grants. Where we actually funded
11 the program that you heard about today at Cosumnes
12 River College. As other programs at the community
13 college system to prepare a workforce and a pipeline
14 for the energy efficiency system.

15 We were training home raters and we're
16 training building performance analysts and we're now
17 beginning to see that many of these individuals are
18 being placed in jobs. Additionally, our agency has
19 just received what I call Green OJT which is really On
20 the Job Training Program Grants where we can offer a
21 wage subsidy to employers in the energy efficiency
22 area.

23 While this offers a rebate to wages for an
24 employer, putting money in their pocket, they still
25 need the opportunity to drive sales in order to

1 increase production in order to hire those
2 individuals. So while we still have this benefit to
3 offer employers we still need programs like MIST who
4 can offer the product and the inventory of the
5 homeowners being able to incur these services so that
6 these contractors can hire the people like Linnzi and
7 can continue to hire the graduates that we're
8 training.

9 So I would just like to say that MIST is one
10 of the best incentives in job creations that we have.
11 We want to continue to move forward to place many of
12 our Clean Energy Workforce Training Program trainees.
13 We've trained over 400, by the end of June we'll have
14 600. About a third of those are in the energy
15 efficiency sector so programs like MIST, that 136 jobs
16 that are backlogged we've got people to fill them so
17 please consider refunding this program. Thank you.

18 CHAIRMAN WEISENMILLER: Thank you. We have
19 a couple parties on the phone, I believe, so let's
20 start with Brennan Jensen from Ecology Action.

21 MS. JENSEN: Hello. This is Brennan Jensen
22 with Ecology Action. Thank you very much, Chairman
23 Weisenmiller and other Commissioners. We serve as the
24 agreement administrator on behalf of the local
25 government commission for the statewide Energy Upgrade

1 California Program. And we just wanted to call to
2 voice our appreciation for CHF and the good work that
3 they have been doing throughout the state during the
4 duration of their contract.

5 We provide field staff throughout California
6 principally in 30 of the 58 counties where we provide
7 on the ground outreach and technical assistance to
8 consumers, homeowners, contractors, other building
9 professionals to engage them to participate in the
10 program, to complete upgrades and to help create jobs
11 for Californians. And we've had the privilege of
12 working hand in hand with CHF throughout this process.

13 They have really provided a very valuable
14 additional tool for homeowners and for building
15 professionals to be able to engage in the program and
16 we feel that their contribution has been very vital to
17 the overall success of Energy Upgrade California. We
18 would like to see this program continue to be
19 supported.

20 One piece I wanted to indicate was that our
21 program overall is on track and on budget moving
22 forward. We've very pleased to help to be
23 contributing to over 2,500 upgrades to date. It is
24 noteworthy that approximately 1/3 of all of the
25 upgrades that have been completed or are in progress

1 throughout the state have utilized CHF financing and
2 that has been something that's been helpful also to
3 bring people to the table whether or not they actually
4 end up selecting the use of that financing. It often
5 gets people engaged and willing to participate from
6 the beginning.

7 So I think with that that's probably the end
8 of my comments unless there's any additional
9 questions.

10 CHAIRMAN WEISENMILLER: Thank you. Thanks
11 for being available. I think the last one is Mark
12 Brewer.

13 MR. BREWER: Analyst on the commercial side
14 of the business and I want to talk about my experience
15 with the CHF MIST program. This last summer I had my
16 35 year old heat pump and air conditioner replaced and
17 insulation added to my attic. And being of moderate
18 income I was able to use the low interest rates the
19 MIST program offered.

20 Having an energy audit of my home and seeing
21 the data along with the third party verifier after the
22 installation really gave me peace of mind with the
23 actual energy savings from day one. I wanted to
24 recommend - I do recommend this program to my friends
25 and family and I believe this program should be

1 continued. Thank you.

2 CHAIRMAN WEISENMILLER: Thank you. Is there
3 anyone else either in the room or on the line who
4 wants to speak on this topic?

5 MR. HANSON: Good morning, Commissioners.
6 My name is Jason Hanson. I'm the President of Sierra
7 Pacific Home & Comfort. We're a local company
8 established in 1984. Our core competency is
9 retrofitting existing buildings for energy efficiency
10 and renewable energy. A number of things that have
11 been said here today that I can reiterate that I
12 won't. I'll emphasize a couple of points.

13 One is the implementation method of this
14 program. CHF, the Joint Powers Authority, has done a
15 fantastic job of serving the community that is
16 involved with this in the sense that as a contractor
17 it is engaged with them, they are very effective at
18 communicating with us as well as with the homeowner
19 client who is ultimately who we're here to serve.

20 As opposed to other programs that may be
21 available out there, our company has worked in a
22 number of programs related to energy efficiency or
23 renewable energy. We've seen a lot of different types
24 of administration and how rebates can be applied and
25 this program has definitely set the standard that I

1 think should be emulated for all others in the
2 future. They've done a fantastic job doing this very
3 cost effectively for us.

4 The other point I'd like to emphasize is the
5 financial analysis for this. Homeowners are
6 particularly confident in this. There's a couple of
7 things that hold back faster adoption in the market
8 for energy efficiency and renewable energy. I would
9 say one is a macro sense of consumer confidence.
10 There is only so much that we can do to control or to
11 influence that. I would say that you have influenced
12 that though. You have influenced that with this
13 program and I'll touch on that in a minute.

14 As well as getting funding for the project.
15 The things that we do make people's homes and
16 buildings more safe, more comfortable, more
17 affordable. Everybody wants these things they just
18 need to find a way to do it and they need a little bit
19 of confidence in doing it.

20 The design of this program, the low
21 interest, long term nature of the loan makes the
22 project cash flow neutral or positive. In fact,
23 that's a stipulation of it but the superior design of
24 this has enabled homeowners to see things they really
25 want and then have a way of implementing it and they

1 have confidence in it because of what you've done
2 with the design. We used Commission approved modeling
3 software. We test the home in and we test the home
4 out and we prove our work and then on top of it we
5 have this other entity that is supervising what we're
6 delivering to them and the homeowner sees this.

7 So combined with that level of confidence
8 and the affordability of making the project doable
9 you're impacting these people's lives. The program
10 can in fact grow. Lots of people have talked about
11 it. I would say that you're really, based on what
12 could be done with this, you really haven't reached
13 what could be a pilot stage yet. This could go so much
14 further by implanting the program on a wider scale
15 with more funding. And I'm able to asset in that
16 anymore if you need to.

17 CHAIRMAN WEISENMILLER: Thank you. Thanks
18 for being here. Commissioners?

19 COMMISSIONER DOUGLAS: Mr. Chairman, I've
20 decided that I do have a few more questions for Mark
21 Lowder if you're willing to come forward again.

22 Thank you so much for being here and
23 sticking to the end.

24 Could you tell us how many contractors and
25 how many businesses have participated or otherwise

1 benefited from the program's broad —

2 MR. LOWDER: Contractors?

3 COMMISSIONER DOUGLAS: Contractors. Let's
4 start with contractors.

5 MR. LOWDER: Contractors qualify for our
6 program, I think we mentioned earlier. I think it's
7 55 contractors and 39 of them have actually initiated
8 projects in our program.

9 COMMISSIONER DOUGLAS: Great.

10 MR. LOWDER: I couldn't tell you beyond that
11 because there are other contractors who may sub out to
12 them but these are the ones that qualify for our
13 program.

14 COMMISSIONER DOUGLAS: I see. And in some
15 cases I think they do look for other contractors to do
16 —

17 MR. LOWDER: I'm certain of that.

18 COMMISSIONER DOUGLAS: The actual work. All
19 right.

20 What kind of work is typically done in these
21 houses?

22 MR. LOWDER: Well, it's a tier 3 retrofit
23 and let me just back up and say, the scope of our work
24 has been negotiated with the CEC staff. It's a tier e
25 retrofit and everything that goes with that which you

1 described as a tier 3 RFP. This typically involves
2 looking at how well the house is sealed, the nature of
3 the efficiency and effectiveness of the equipment
4 involved. It's also open as other programs aren't and
5 that may explain some of the differences in the
6 average cost of retrofits you've heard discussed here
7 today. It also includes window and door takeouts and
8 exchanges, windows and doors. It also includes solar
9 if the 10 percent energy savings are achieved in the
10 initial measures. So that's the type of work that's
11 done.

12 COMMISSIONER DOUGLAS: Great. Another
13 broad, general question. How would you describe your
14 experiences in dealing with the Energy Commission
15 through the course of this project? We try to be user
16 friendly. Try is sometimes all we can do but I would
17 love to get any feedback that you have.

18 MR. LOWDER: Certainly. We had some -
19 initially we had some frustrations, I'm sure you folks
20 did, for a wide variety of reasons for the delay in
21 implementing the contract. But once we were in - the
22 negotiating and signing the contract, we actually
23 worked with a great team of people. I spend most of
24 my time with Adrian Ownby, our contract manager. I
25 think Adrian works for or certainly with Craig

1 Hoellwarth and we spend time with him but also Bill
2 Pennington, Panama Bartholomy, the attorneys, Gabe
3 Hernandez and some others and we've had a very
4 positive experience with them.

5 Our sense is that this has been a very large
6 amount of money that's had to go out in a very short
7 amount of time and it's been very difficult for the
8 CEC and probably any organization to try to do that in
9 a timely fashion.

10 COMMISSIONER DOUGLAS: Great. Thank you. I
11 appreciate your comments and your perspective. And,
12 again, of what I hear from the staff is the CHF has
13 been a tremendous administrator and great to work
14 with. Those are all of my questions. I don't know if
15 any of my colleagues have any questions.

16 COMMISSIONER BOYD: I have no questions. I
17 thank the gentleman for the data earlier on. I think
18 I would just say that I think we recognize how cool
19 this program is and that up here I know this group is
20 totally supportive of its goals and its objectives and
21 I'm sure we're wishful that we had unlimited dollars
22 to direct in his direction and at our disposable to
23 expand and so on and so forth because we have been
24 pushing efficiency for so many years. It's good to
25 hear some progress. And so it's really good to hear

1 that there's a program that has really caught on with
2 such a large audience and that you're able to tell us
3 that the public gets it when you get to them.

4 I am impressed with the fact that being a
5 tad bit of a Keynesian economist that you indicated in
6 these poor times people are willing to spend the money
7 nonetheless when they see the payback they get from
8 this type of program over the long haul. And I think
9 that's extremely valuable and I know that this Agency
10 will save that anecdote to use in other forums as we
11 try to get more money directed to this type of
12 program.

13 So I thank everyone for their commentary
14 today. This has been delightful, quite frankly, to
15 listen to something that is working so well and
16 something that we all mutually would like to expand on
17 an almost unlimited basis. I know Commissioner
18 Douglas in particular, being kind of our lead
19 Commissioner on efficiency these days, has been
20 referenced many times and I appreciate that work that
21 she's done in this arena. Enough said.

22 COMMISSIONER DOUGLAS: If we have no further
23 questions or comments we will allow you to sit down.

24 MR. LOWDER: Thank you very much.

25 COMMISSIONER DOUGLAS: Thank you. And I

1 would be pleased to move Item 8.

2 COMMISSIONER BOYD: Go ahead, Carla.

3 COMMISSIONER PETERMAN: I'll let you get in
4 as many as you can but I'll second that.

5 CHAIRMAN WEISENMILLER: Okay. We have a
6 motion pending. All those in favor?

7 (Ayes.) Motion approved. Thank you.

8 Thanks everyone for your comments and keep up the good
9 work.

10 Going on to Item 9, Sacramento Municipal
11 Utility District. Possible approval of Agreement PIR-
12 11-002 for a grant of \$227,000 to SMUD. This is ARRA
13 funding and it's a match. Avtar?

14 MR. BINING: Good afternoon. My name is
15 Avtar Bining. I'm in the Energy Storage Program and
16 the American Recovery Reinvestment Acts on Smart Grid
17 and Energy Storage here at the Energy Commission.
18 With me is also Mr. Mark Rawson from Sacramento
19 Municipal Utility District attending this Business
20 Meeting.

21 CHAIRMAN WEISENMILLER: Another refugee from
22 the Energy Commission.

23 MR. BINING: Under this agreement,
24 Sacramento Municipal Utility District, aka SMUD, will
25 install and demonstrate a fleet of zinc bromine flow

1 battery energy storage systems. One at the SMUD
2 headquarters, a campus micro-grid, and another at the
3 Anatolia-Chrysanthy substation serving the nearby
4 Anatolia III SolarSmart Homes Community Development.

5 The purpose for the SMUD headquarters
6 storage system is to explore its utility in improving
7 microgrid operation, enhancing emergency operations
8 including campus islanding and augmenting peak period
9 campus operation with non-peak generated electricity.

10 The purpose of Anatolia substation energy
11 storage system is to demonstrate and evaluate
12 integration and operation of energy storage in
13 Anatolia III SolarSmart Homes Community of about 600
14 homes totaling 1.2 MWs of photovoltaic generating
15 capacity.

16 Both energy storage systems will be
17 controlled from a commonly controlled system at the
18 SMUD headquarters site to demonstrate fleet control of
19 multiple distributed energy storage devices.

20 Concurrent with the American Recovery and
21 Reinvestment Act Project over about 4 years period
22 this project will demonstrate competitively priced
23 multi megawatt, long duration, advanced battery energy
24 storage systems for utility grid applications. This
25 project will also validate the potential penetration

1 particularly in photovoltaic and microgrid
2 applications by demonstrating multiple used cases.

3 Also this project will support strategic
4 objectives by SMUD and will address key research
5 questions relating to the SMUD's overall technology
6 strategy for integrating distributed renewable energy.

7 The expected benefits include lowered
8 electricity costs, low transmission and distribution
9 losses that are used in power interruptions and
10 supporting the integration of and evaluate renewable
11 resources.

12 I would also like to add that this project
13 is a result of a competitive solicitation to attract
14 ARRA funds. This augment is an essential part of
15 SMUD's \$5.15 million project also called the Premium
16 Power Distributed Energy Storage System Demonstration
17 for National Grid and SMUD.

18 For this project, SMUD received \$2.46
19 million in ARRA funds from the U.S. Department of
20 Energy. SMUD is contributing \$2.46 million for this
21 project. The term of this agreement is about 48
22 months.

23 I request your approval of this agreement
24 and we will be happy to answer your questions that you
25 might have. Thanks.

1 CHAIRMAN WEISENMILLER: Thank you.

2 Commissioners, any questions or comments?

3 COMMISSIONER BOYD: Mr. Chairman, no
4 question and thanks, Avtar for that presentation. As
5 the lead commissioner on research I've been introduced
6 to this project before. I came before all of us here
7 today and it's just an extremely positive step. I
8 again commend SMUD for always being out there on the
9 cutting edge and looking at projects. I commend the
10 staff for getting into a program that with such a low
11 entry fee that's leveraging a very significant amount
12 of money for energy storage, for looking into the flow
13 batteries which on the rare occasions that we get to
14 get out of this building and mix with the common folks
15 I'm hearing more and more comments about the
16 potential, the possible potential, for some good
17 things with flow batteries so I think it's very good
18 that this is the subject of this project. So I am
19 totally prepared to recommend its approval and commend
20 all involved in carrying it out.

21 COMMISSIONER PETERMAN: Commissioners, I'll
22 also add that I had an opportunity to visit SMUD a few
23 weeks ago and received excellent briefings on the
24 demonstration of research projects that the utility is
25 doing and was able to learn more about this project

1 and its role in promoting renewables integration and
2 so I'm glad to see it as well and happy to support it
3 if the Vice Chair has a motion.

4 COMMISSIONER BOYD: With that, I'll move its
5 approval.

6 COMMISSIONER PETERMAN: I will second.

7 CHAIRMAN WEISENMILLER: All those in favor?

8 (Ayes.) This Item passes unanimously.

9 Thank you, Avtar.

10 COMMISSIONER BOYD: Congratulations.

11 CHAIRMAN WEISENMILLER: Items 10 and 11 are
12 being held. I believe Commissioner Douglas wants to
13 comment on this.

14 COMMISSIONER DOUGLAS: I had asked to make a
15 brief comment on the proposed efficiency standards for
16 battery charger systems and self contained lighting
17 controls.

18 It was scheduled for the Business Meeting
19 today but we made a decision to defer the Item because
20 various issues that were raised in written comments
21 received by the Commission required careful
22 consideration review that could not occur on time for
23 this Business Meeting without requiring staff to work
24 overtime over the Thanksgiving holidays.

25 So we are still are in the process of

1 reviewing the public comments submitted during the
2 45-day period. If changes are made as a result of the
3 comments to the proposed regulations the full text of
4 the proposed regulations will be posted and made
5 available to the public for comment at least 15 day
6 prior to hearing the revised battery charger proposal.

7 I would anticipate that this Item will come
8 before the Commission in the January 2012 Business
9 Meeting with or without changes. That's still under
10 consideration at this point. So, colleagues, I just
11 wanted to let you know when to expect this Item come
12 before us.

13 COMMISSIONER BOYD: I'm startled to learn
14 that you didn't make staff work over Thanksgiving.
15 It's going to put some of us in a bad light.

16 [LAUGHTER]

17 CHAIRMAN WEISENMILLER: Item 12 will come
18 up. The discussion will be at the next Business
19 Meeting.

20 So let's go on to the minutes.

21 Possible approval of October 5, 2011
22 Business Meeting minutes.

23 COMMISSIONER BOYD: I'll move approval.

24 COMMISSIONER PETERMAN: I'll second.

25 CHAIRMAN WEISENMILLER: All those in favor?

1 (Ayes.)

2 Possible approval of November 16, 2011

3 Business Meeting minutes.

4 COMMISSIONER BOYD: Again, I'll move

5 approval of the November 16 minutes.

6 COMMISSIONER PETERMAN: I'll second.

7 CHAIRMAN WEISENMILLER: All those in favor?

8 (Ayes.) This also passes unanimously.

9 Let's go on to the Lead Commissioner or
10 Presiding Member Reports. Mr. Boyd?

11 COMMISSIONER BOYD: Well, I'll try not to
12 say too much. There's been so many activities
13 underway at present.

14 But in the context of our responsibilities
15 for transportation issues and furtherance of the goals
16 and objectives of the AB 118 program I did participate
17 in two different events in Los Angeles the week before
18 last involving the auto industry and activities of our
19 Agency in the electric vehicle arena and was afforded
20 a brief opportunity to poke my head in the LA auto
21 show and see what has become a surprise to folks like
22 myself, Mary Nichols and Secretary Rodriguez who was
23 there with me that more and more auto companies are
24 surprisingly introducing electric vehicles and
25 derivatives of electric drive and it's really catching

1 on and I would comment that I have agreed and
2 accepted the draft of the Plug In Electric Vehicle
3 Collaborative to once I step down from the Commission
4 to become the Permanent Chair of that group in the
5 future, pro bono, just to try to move the future of
6 electric vehicles along.

7 Secondly, as the Chairman knows, we are
8 working very hard within this Agency to wrap up many,
9 many facets of the Integrated Energy Policy Report and
10 the multiple chapters that are being developed and as
11 we speak there's a lot of staff doing just that.
12 We're working very hard to, in particular, deal with
13 the transportation chapter and the many, many issues
14 that have been raised in that arena that involve our
15 activities and the Air Resource Board's activities as
16 well. It's taking a herculean effort to boil it down
17 to the major policy issues that need to be reflected
18 in a brief chapter in order to keep the IEPR from
19 being over burdened in this particular arena. So we
20 will continue to work to make the deadline which is
21 upon us to finish that particular activity.

22 So enough said.

23 COMMISSIONER PETERMAN: Still working. No
24 retirement in sight. That's about it.

25 [LAUGHTER]

1 CHAIRMAN WEISENMILLER: Well I was going to
2 mention that I went down to San Diego, to UC San
3 Diego, and met with [inaudible] and she was doing a
4 tour of UC San Diego looking at their microgrid and
5 obviously everything else. So it's always a fun and
6 interesting trip there. We talked about how the Navy
7 would like to build off of the microgrid research at
8 UC San Diego and replicate that in the bases there.
9 So certainly fascinating body going forward, again,
10 building off of some of our groundbreaking PIER
11 research and with not only climate and job
12 implications but certainly some national security
13 implications.

14 COMMISSIONER PETERMAN: So actually, I'll
15 add one thing since the Chair reminded me of something
16 else I did do.

17 I was also in San Diego around the same time
18 but doing a different visit. Had the opportunity to
19 visit some Marine bases, Camp Pendleton and Miramar,
20 and toured the number of renewable energy facilities
21 that they've developed at the bases. And truly they
22 were impressive. They're demonstrating many types of
23 renewable technologies including solar PV, landfill
24 gas, hydrogen vehicles, electric vehicles and glad to
25 see that they're participating in the renewable energy

1 economy. And also what was impressive about the
2 visit was the extensive knowledge that the Marines had
3 about wildlife protection. Indeed, the base spans
4 many acres and they do their training in many more and
5 they've had to be sensitive to endangered species in
6 those areas and have implemented various controls in
7 order to protect various species. Again, it was good
8 to see that engagement by the military and hear about
9 the importance of renewable energy both for security
10 and environmental protection going forward.

11 CHAIRMAN WEISENMILLER: Certainly it was a
12 lesson for all of us as we try to work with the state
13 facilities to match the Navy and Marine's activities.

14 Chief Counsel Report.

15 MR. LEVY: I have nothing to report today.
16 Thank you.

17 CHAIRMAN WEISENMILLER: Executive Director's
18 Report.

19 MR. OGLESBY: It's very brief. I have a
20 follow up to some activities that I talked about at
21 the October 5 meeting about process improvements.

22 Today I'll be signing a standing order to
23 implement the following changes that relate to our
24 docketing process. Those changes, very briefly, will
25 permit parties and interested entities to file

1 electronic documents only without the need to submit
2 documents in hardcopy subject to a maximum file size
3 number.

4 COMMISSIONER BOYD: Hooray.

5 MR. OGLESBY: It'll permit the filing for
6 service upon the Chief Counsel in three specific
7 administrative proceedings by delivery of documents to
8 the Docketing Unit and permit the filing of
9 confidentiality applications by submittal to the
10 docket.

11 The intent is to amend the standing order in
12 the future to incorporate further administrative
13 improvements which are within my power to amend. I've
14 collaborated with the Hearing Advisers Office and the
15 Public Advisers Office in the development of the
16 standing order.

17 We will continue to work to improve our
18 process and I encourage members of the public to give
19 us their thoughts about further improvements.

20 The standing order will be posted on the web
21 as soon as possible.

22 MR. LEVY: Commissioners, may I just give
23 kudos to Pippin Brehler and Jeffrey Ogata for rolling
24 out this order and doing the background work and
25 research on it.

1 MR. OGLESBY: Very true.

2 CHAIRMAN WEISENMILLER: Thanks for much to
3 your staffs on this. This is a good step. Obviously
4 the Warren-Alquist Act and this Agency reflects a lot
5 of the time, the 70s, and we really need to keep
6 pushing particularly in that area to reflect more of
7 the 21st century and encourage public participation
8 more electronically. Basically moving away from the
9 truck swelling up to something that's more of what
10 you'd expect for litigation in this century but while
11 maintain public participation.

12 Jennifer, do you have anything?

13 MS. JENNINGS: Just I'd like to second your
14 comments and say that I appreciate the Executive
15 Director signing this standing order and do think it
16 will be helpful to the members of the public who want
17 to participate in our proceedings. Thank you.

18 CHAIRMAN WEISENMILLER: Well, certainly
19 thanks for your help on this, getting this out.

20 And we have, I believe, two public comments.
21 In the room, I think, is Mr. Patrick Splitt.

22 MR. SPLITT: Sorry for the delay. It's Pat
23 Splitt from App-Tech. I guess it's good afternoon.

24 I'm just here to finish what I started at
25 the last meeting which is initiate my request for an

1 exceptional design. So I just want to know
2 officially give the fourth copy of my request. And
3 the reason for doing this is because I want to have a
4 workshop that manufacturers can attend and they're all
5 going to be off in January in Chicago for a big show
6 and I want to have it two weeks after they come back.
7 In order to that day, it has to be within 75 days of
8 my official application. So now it will be.

9 So just a technicality but I follow that
10 stuff.

11 CHAIRMAN WEISENMILLER: Well, hopefully,
12 with our new process you can even do it electronically
13 instead of in person.

14 MR. SPLITT: Well, actually, I love coming up
15 here and entertaining you.

16 CHAIRMAN WEISENMILLER: Okay. Thank you.

17 In addition we have Nina Beatty on the
18 phone.

19 MS. BEATTY: It's Nina Beatty. Good
20 afternoon. I don't know if the Commission is aware of
21 the many serious problems and issues that are
22 developing with the SmartMeter AMI deployment. This
23 is not a PG&E problem nor even a California problem
24 but the problems with meters are occurring nationwide
25 and they're growing.

1 I requested an investigation by the
2 Commission into these serious issues and would like a
3 state halt to the AMI SmartMeter deployment in
4 California.

5 The problems and the issues include over
6 billing, with doubling, tripling and more than many
7 people have experienced, accuracy and reliability
8 questions that were not addressed by the Structure
9 Group Report and even the DRA commented that these
10 needed to be evaluated. Health and environmental
11 impacts from microwave frequency, radiation from the
12 meters, the antennas and the home area networks soon
13 to be implemented. The loss of privacy which is an
14 inalienable right for us to have privacy. There's
15 been interference with electronics, security systems,
16 ground fault circuit interrupters which protect
17 against electric shock and fire and with the meters
18 themselves.

19 There's the potential for interference with
20 medical devices such as pacemakers and Parkinson's
21 implants and I know of interference for a local woman
22 who had her pacemaker defibrillate. There's of course
23 the job loss from the meter readers. There have been
24 fires, exploding meters, fried appliances, outlets and
25 wirings. In fact, Houston has a law firm specializing

1 in SmartMeter fires now.

2 The hacking and security risk to the
3 electrical grid and to individual meters coupled with
4 the wireless remote disconnection feature to the
5 meters makes this a real substantial problem. There's
6 enhanced burglary risk from wireless access to
7 personal energy usage information. And a report
8 issued early last year found that SmartMeters can
9 violate FCC exposure guidelines under normal operating
10 conditions and that they can violate the grants of
11 manufacturer.

12 I was very surprised to find that there was
13 no CEQA EIR done on wireless SmartMeters. People are
14 having very serious health problems following
15 SmartMeter installation including people who are in
16 favor of SmartMeters. Some can no longer use rooms in
17 their homes adjacent to the meters or cannot be in
18 their homes at all because they become so ill. Some
19 have become homeless sleeping in their cars to get
20 away from meters. Health problems include dizziness
21 or disorientation, headaches and migraines, nausea and
22 vomiting, agitation, hearing ringing or buzzing like
23 tinnitus, heart problems, ear pain, nose bleeds,
24 seizures, sleep problems. As I said, the pacemaker
25 defibrillation, head, eye and chest pressure,

1 difficulty breathing, pulsing sensations, physical
2 weakness or pain, increased blood pressure, cognitive
3 problems such as memory loss or difficulties with
4 concentration or brain fog and
5 electrohypersensitivity. One woman testified in tears
6 at the Santa Barbara Board of Supervisors Meeting that
7 her husband has become catatonic in their home since
8 the SmartMeter installation if he's near the
9 SmartMeter. She has to keep him outside away from the
10 meter and he's now sensitive to their TV and computer
11 which he never was before.

12 She said, "I don't know what I'm going to do
13 when the winter comes." And it's now winter time.

14 People are also having health problems with
15 the digital meters. Most, maybe all, digital meters
16 including SmartMeters have a power supply issue that
17 creates dirty electricity on known health problems.

18 On May 31, the World Health Organization
19 declared that the radiation SmartMeters emit is a
20 Class 2B carcinogen in the same category with lead,
21 DDT and benzene and that was based on cellphone
22 research. SmartMeters could emit a hundred times the
23 radiation of cellphones. The chart in the recent
24 California Council on Science and Technology Report
25 incorrectly compared different units of measurement.

1 When that error is corrected SmartMeter exposure is
2 much higher than cellphones.

3 Microwave radiation is biologically potent
4 and causes many known health impacts including DNA
5 damage, blood-brain barrier disruption, heart
6 problems, decreased melatonin, sperm damage, cellular
7 stress, impacts to wildlife as well we increased risks
8 for cancers and tumors. Children are especially
9 vulnerable with their developing systems including
10 their immune and nervous systems and they absorb more
11 radiation into their brains and eyes.

12 Some of this research has been known for
13 decades. This is not just a few studies. There are
14 thousands of studies. The entire issue of the August
15 2009 of the Path of Physiology Journal was devoted to
16 the research on health impacts from RF EMF. Overseas
17 there's much more awareness and action regarding this
18 issue but we don't hear about that here.

19 So microwave RF emitting devices are being
20 installed on every building in California. We learned
21 what happened when we ignored early warnings about
22 cigarettes. The California Council on Scientific
23 Technology Report was largely criticized by health
24 professions and scientists including by the California
25 Department of Public Health. A petition was filed by

1 EMF Safety Network last year calling for a moratorium
2 and an investigation into the health effects. It was
3 dismissed by the PUC in December. It was refilled
4 again early this year. The division of rate payout
5 that gets set in October of 2010.

6 DRE recommends immediate Commission action
7 to address concerns about RF interference and possible
8 adverse impacts on health and safety. The Commission
9 has the primary authority and responsibility to
10 protect the health and welfare of California residents
11 by ensuring the public utility service is safe and
12 reliable. They also said there's more work to be done
13 to evaluate these meters to "restore public confidence
14 in SmartMeters if such conflicts --"

15 CHAIRMAN WEISENMILLER: Thank you for your
16 comments. Can you wrap up now?

17 MS. BEATTY: Yes. Thirteen cities and
18 counties have taken action, have ordinances
19 prohibiting SmartMeter infrastructure installation, it
20 represents over 2 million people. Forty-seven local
21 governments have taken some action and there's a lot
22 of (inaudible) investigating their SmartMeter program.
23 There's a lot of legislature as requested by their
24 Health Departments to look into this. And this is
25 also happening overseas.

1 So I ask you to take action on this urgent
2 issue. The CPUC may make a decision on their opt out
3 proposal in January but the opt out doesn't assist
4 anyone who lives in clustered housing. The meters and
5 their network will be everywhere. So I ask the
6 Commission to look into this issue. It's very urgent
7 and, as I said, people are being severely harmed by
8 this deployment. Thank you.

9 CHAIRMAN WEISENMILLER: Thank you for your
10 comments. We appreciate those and your concerns.
11 Normally we try to limit the comments and certainly
12 we've indulged you going beyond our normal limit but,
13 again, thanks for your comments. And we appreciate
14 your concerns.

15 COMMISSIONER PETERMAN: I was just
16 wondering, ma'am. Do you represent a particular
17 organization?

18 MS. BEATTY: No, I do not. There are other
19 organizations that I'm in contact with like EMF Safety
20 Network that's based in Sebastopol and there's a group
21 that's in the Monterrey Bay area which is where I'm
22 based. But no, I'm speaking independently.

23 COMMISSIONER PETERMAN: Okay. And I just
24 wanted to check. And I'm assuming that you've
25 submitted comments or provided public testimony as

1 well to the Public Utilities Commission and if you
2 have not I would encourage you to do so. I would also
3 mention that another organization that you can reach
4 out to, at least to share your research or information
5 with, would be TURN, The Utility Reform Network in San
6 Francisco, which has been collecting information
7 around complaints or concerns related to SmartMeters
8 and they also do advocacy in front of the PUC and can
9 provide you with more venues. So thank you.

10 MS. BEATTY: Thank you very much.

11 CHAIRMAN WEISENMILLER: Thanks. Any other
12 public comment? Yes.

13 MR. DAVIS: My name is Bob Davis. I'm from
14 Red Bluff, California. I'd like to thank the
15 California Energy Commission for funding the Humboldt
16 State Research on the PEM electrolyzer.

17 The team at Humboldt State suggested
18 electrolyzers powered by wind for the home hydrogen
19 refueling stations. I fashioned one of those. It
20 will be operational in February. I have a vehicle
21 that was retired by the California State to run, it's
22 a bi-fuel vehicle, it will run hydrogen as well as
23 compressed natural gas and gasoline.

24 Any help that the Commission can give for
25 future bi-fuel vehicles available to the public would

1 be greatly appreciated. A bi-fuel vehicle with
2 today's engines and computers will run any fuel. I
3 know that you're working on infrastructure for the
4 future, for the public and trucks and so on. That
5 will come about faster if we have bi-fuel vehicles. I
6 may be talking to the wrong people but if there's
7 anyone here who knows how we can get the manufacturers
8 to make those vehicles available to the public as well
9 as the states and counties. I would appreciate
10 knowing about that. Thank you.

11 COMMISSIONER BOYD: Sir, I appreciate your
12 comments. I'm surprised to hear and disappointed that
13 I did not know that the government had surplus bi-fuel
14 vehicles that included hydrogen as a fuel source. Bi-
15 fuel vehicles, to me, normally means, well for
16 instance in this context, natural gas and gasoline.

17 This Agency has been encouraging auto
18 manufacturers for at least the last two years to put
19 more emphasis on light duty natural gas vehicles which
20 can be either dedicated or bi-fuel. I noticed at the
21 LA Auto Show that there was the introduction of more
22 natural gas or bi-fuel vehicles including hydrogen in
23 that and possibly you're talking about a possible
24 Hythane vehicle where you mix the hydrogen with the
25 natural gas as the fuel source. That's something

1 that's being talked about a lot. I doubt if any
2 vehicle manufacturers are ready to come out with
3 vehicles like that but stranger things have happened.

4 Through our Alternative Fuels and Vehicle
5 Technology Program we do try to incent the production
6 of these kinds of alternative technologies.

7 I'm interested; you have this facility you
8 mentioned, in your home?

9 MR. DAVIS: I do.

10 COMMISSIONER BOYD: And you live in?

11 MR. DAVIS: Red Bluff, California.

12 COMMISSIONER BOYD: Red Bluff. Okay.

13 MR. DAVIS: It will be the most advanced in
14 the world when it's commissioned.

15 COMMISSIONER BOYD: Well, that's
16 interesting. I'm sure our staff will be curious to
17 learn more about that.

18 MR. DAVIS: The bi-fuel is the two systems,
19 very necessary. I have talked with CNG vehicle owners
20 and they too are using hydrogen in the form of
21 Hythane. That's usually 20 percent but the newer
22 automobiles with turbo chargers can take us far above
23 20 percent. Thank you.

24 COMMISSIONER PETERMAN: Sir, I'll also just
25 add. First, very excited to hear about hydrogen being

1 derived with renewable sources. As Commissioner Boyd
2 has referred to with their AB 118 Investment Plan that
3 we do annually, we fund a number of different types of
4 vehicles and infrastructure and I believe there will
5 be a meeting in a few weeks to start, a public
6 meeting, that will go over the next Investment Plan.
7 Is that correct?

8 COMMISSIONER BOYD: Yes, it is.

9 COMMISSIONER PETERMAN: And I would
10 encourage you to attend that meeting. I don't know if
11 there's a formal date, I'll defer to the Commissioner
12 on that, but it's a public meeting where we'll talk
13 about what we'll be funding going forward in the next
14 year and I'll also welcome your public comments or
15 additional information on the vehicles you're
16 describing at that time.

17 MR. DAVIS: The date, the hour and will it
18 be here?

19 COMMISSIONER BOYD: It will be here. I'm
20 not sure the date, even myself. Perhaps our Executive
21 Director.

22 MR. OGLESBY: I don't have the date off the
23 top of my head but I will encourage you to monitor our
24 website.

25 MR. DAVIS: Yes, I do.

1 COMMISSIONER BOYD: It used to be mid-
2 December which is rapidly, suddenly approaching.

3 COMMISSIONER PETERMAN: In my head I'm
4 thinking maybe the 15th but look at the AB 118
5 Announcements.

6 MR. DAVIS: I will. Thank you. By the way,
7 in the Humboldt Study the estimated cost was about
8 \$8,000. Believe me it's more.

9 CHAIRMAN WEISENMILLER: I want to thank you
10 for coming all the way here and also sticking around
11 to this point. If I had realized you wanted to speak
12 I would have put you on before the person on the phone
13 but I didn't. So thanks a lot for coming in and
14 thanks a lot for sharing your information with us.

15 This meeting is now adjourned.

16 (Whereupon, at 12:55 p.m., the business
17 meeting was adjourned.)

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